United Nations

CEDAW/C/MYS/1-2

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
12 April 2004

Original: English

Committee on the Elimination of Discrimination against Women

Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

Combined initial and second periodic reports of States parties

Malaysia*

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* This document is being issued without formal editing.

PART 1

THE MALAYSIAN CONTEXT

General Background

1. Thirteen states and three federal territories form the country known as Malaysia. Straddling the South China Sea, the land comprises Peninsular Malaysia and the northern portion of the island of Kalimantan. Countries bordering Malaysia are Thailand, Cambodia and Vietnam to the north, the Philippines to the east and Indonesia and Singapore to the south. To the west, Malaysia is separated from the island of Sumatra by the Straits of Malacca.

2. Malaysia lies entirely within the equatorial zone, which is characterized by a hot, humid and invariable climate throughout the year. The climatic regime is governed by the seasonal northeast and southwest monsoons, which bring heavy rainfall to nurture the luxuriant flora of the tropical rainforest, which extends over a large part of the country. The coastal areas are typified by mangroves, tropical wetlands and sandy ridges.

3. The monsoon winds were an important factor during the days of sailing ships, which brought traders, settlers and colonizers to the Malay Archipelago, particularly from the north, west, and south. Chinese, Indians, Thais, Indonesians, Arabs and later Europeans, mainly the Portuguese, Dutch and British, have contributed to the multi-ethnic population mix along with the indigenous peoples namely the Malays, aborigines (orang asli) and natives in Sabah and Sarawak such as ***Minangkabau, Dayak, Penan, Kadazan, Murut, Senoi and Negrito***.

4. The Malays and other indigenous peoples are collectively known as Bumiputra (sons of the soil.) The various Bumiputra groups share the characteristics of being rooted in an agricultural-seafaring economy and having a village society where leadership is largely through consensus and where attitudes are formed by a belief in an-all pervasive spirit world. The animistic culture of the Malays came to be overlaid by Hinduism and later was subsumed by Islam.

5. The non-indigenous (non-Bumiputra) people are descendants of later migrant settlers. Around the time of the British colonial administration, the Chinese came into Malaya (as the country was then known) as tin-mine workers, traders and support workers. The Indians, notably the Tamils and the Telegus, were brought in by the British as indentured labour to work on rubber and oil palm plantations and as teachers and other professionals.

6. The migrants brought with them their social, religious and cultural traditions. Hence, we have Hindu and Buddhist traditions, Confucian and Taoist values, Christianity in its various denominations, Sikhism and Islamic religious and legal practices. Today, Islam is the official religion and Muslims form the largest single religious group i.e. 60.4 per cent in 2000. However, the right to freedom of worship is protected by the Constitution and other religions are freely practiced in Malaysia.

Religion	**Percentage**
Muslim	60.4%
Buddhist	19.2%
Confucian, Taoist	2.6%
Christian	9.1%
Hindu	6.3%
Folk, Tribal	0.8%
No Religion	0.8%
Others	0.4%
Unclassified	0.3%
Population	**23,274,690**

Table1.1: Population According to Religious Denominations Based on Census 2000

The Population and Demographic Indicators

7. The Malaysian population increased at an average annual rate of 2.4 per cent during the period of the Seventh Malaysia Plan (1995-2000) to reach 23.27 million in 2000. The mid-year population estimate for 2002 is 24.37 million. It is estimated that the population will reach 26.04 million by 2005, growing at an average annual rate of 2.3 per cent. The growth rate during this time is expected to be lower than during the time span of the Seventh Plan due to the decline in births as more women pursue further education and training. In 2000, about 49.1 per cent of the population was female.

8. As shown in Table 1.2, the population is a fairly young one with most Malaysians falling into the 15 – 64 year old age group and only a small proportion into the 65 years and above group:

Table1. 2: Population by Age Group and Sex, 2000

Age Group	**Sex**				
	Male (million)	**%**	**Female (million)**	**%**	**Total (million)**
0-4	1,347.6	51.57	1,265.1	48.42	2,612.7
5-9	1,365.0	51.57	1,281.5	48.42	2,646.5
10-14	1,276.3	51.22	1,215.4	48.77	2,491.8
15-19	1,195.8	50.52	1,171.2	49.48	2,367.0
20-24	1,050.9	50.34	1,036.3	49.65	2,087.2
25-29	972.7	50.63	948.4	49.36	1,921.1
30-34	915.8	50.87	884.4	49.13	1,800.2
35-39	866.2	50.80	838.8	49.19	1,705.0
40-44	764.7	51.40	722.8	48.59	1,487.5
45-49	604.8	51.75	563.7	48.24	1,168.5
50-54	480.3	52.27	438.6	47.73	918.9
55-59	320.1	51.91	296.5	48.08	616.6
60-64	274.2	49.76	276.8	50.23	551.0

65-69	164.9	47.56	181.8	52.43	346.7
70-74	125.9	47.67	138.2	52.33	264.1
75+	128.1	44.20	161.7	55.79	289.8
Total	**11,853.4**	**50.93**	**11,421.3**	**49.07**	**23,274.7**

Source: Department of Statistics, Malaysia.

Table 1.3 shows the distribution of the population according to ethnicity and sex:

Table 1.3: Population by Ethnic Group and Sex, 2000

Ethnic group	**Sex**		**Total (million)**
	Male (million)	**Female (million)**	
Malaysian Citizen:	**10,854.7**	**10,667.6**	**21,522.3**
Bumiputera	7,181.0	7,067.2	14,248.2
Chinese	2,913.7	2,778.2	5,691.9
Indian	843.1	837.0	1,680.1
Others	135.3	134.4	269.7
Non-Malaysian	**780.3**	**604.4**	**1,384.8**
Total	11,853.4	11,421.3	**23,274.7**

Source: Department of Statistics, Malaysia

9. Since 1980, both fertility and mortality rates have declined. The crude birth rate declined from 30.6 per thousand in 1980 to 26.8 and 24.4 per thousand in 1995 and 1999 respectively while the crude death rate declined from 5.3 per thousand in 1980 to 4.7per thousand in 1995 and 4.6 per thousand in 1999. The total fertility rate declined from 4.2 per woman in 1980 to 3.4 per woman in 1995. Infant mortality rates declined from 23.8 per thousand live births in 1980 to 10.3 and 7.9 per thousand live births in 1995 and 2000 respectively. Life expectancy for both men and women has increased – whereas in 1980, women had a life expectancy of 71 years and men of 66.5 years. In 2000, their life expectancy was 75 years and 70.2 years respectively.

The Economy

10. The general path of the country's economic evolution has been mapped out in a series of five-year plans. During the period 1971–1990, national development was guided by the New Economic Policy (NEP), which focused on growth with equity. The two-pronged strategy of the NEP was to i) reduce and eventually eradicate absolute poverty by raising income levels and increasing employment opportunities for all Malaysians; and ii) restructure society to correct economic imbalances so as to reduce and eventually eliminate the identification of race with economic function.

11. During the two decades following 1970, Malaysia achieved significant progress in economic growth as well as in meeting its social objectives. The nation was able to sustain its pace of development with the GDP growing at an average rate of 6.7 per cent per annum, while the incidence of poverty was reduced from 49.3 per cent in 1970 to 16.7 per cent in 1990.

12. The National Development Policy (NDP) (1991-2000), which succeeded the NEP, retained the main elements of the NEP and introduced several new thrusts for balanced development. These served to emphasise the non-materialistic aspects of national development, especially the strengthening of social and spiritual values and the protection of the environment and ecology.

13. In addition, *Vision 2020*, which outlines the progress it should have made by the year 2020, is a key blueprint for the country's future. In essence, it calls for total development and envisions that by 2020, Malaysians will live in harmony in a country, which is economically dynamic and robust, and a society that has strong moral and ethical values, and is democratic, liberal, tolerant, caring, progressive and prosperous.

14. Macroeconomic performance during the initial period of the NDP was impressive. The economy expanded at an average rate of 8.2 per cent per annum. However, with the onset of the economic crisis, the growth rate declined to 7.3 per cent in 1997 and 7.5 per cent GDP in 1998.

15. The incidence of poverty reduced further from 8.7 per cent in 1995 to 6.1 percent in 1997 and 7.5 per cent in 1999. However, the economic downturn resulted in the incidence of poverty increasing to 8 per cent in 1998. To tackle the crisis, the Government formulated the National Economic Recovery Plan in July 1998. The measures introduced in this Plan include adopting an appropriate exchange rate regime and increasing foreign reserves, strengthening the banking system and continuing with the socio-economic agenda of providing appropriate social programmes for people adversely affected by the crisis. Recent figures indicate that Malaysia is on the road to recovery.

16. The Malaysian economy is projected to grow at an average rate of 7.5 per cent per annum with low inflation and price stability for the period of 2001 to 2005. This growth will be supported by domestic demand with the strong recovery in private investment. Foreign investment will remain important, particularly for the upgrading of technology, skills and management expertise.

Education and Literacy Rates

17. Education and skills training is accorded a high priority in nation building in order to provide a sufficient pool of educated, highly skilled, strongly motivated workers and responsible citizens with high moral and ethical values. There are measures to increase accessibility and participation, especially for the low-income groups and rural communities, in education and training. In addition, the Sixth and Seventh Plans emphasised promoting educational opportunities in the fields of science and technology.

Table 1.4: Percentage of Student Enrolment According to Gender and Institution, 2001

Type Of Institution	**2001** **Male**	**Female**
Primary School	51.4	48.6
Secondary School	49.5	50.5
Polytechnic	61.2	38.8
Teachers' College	32.5	67.5
University	42.2	57.8

Source: Ministry of Education, 2001

18. A good indicator of the progress of human development is the literacy rate. Using the population aged 10 years and above who ever attended school as a proxy for literacy, it was found that the literacy rate in 1991 was 85 per cent compared to 72 per cent in 1980. Interesting to note was the increasing literacy levels among females and the narrowing sex differential in the proportion of those who have ever been to school. While in 1980 only 64 per cent of the female population aged 10 and above had ever been to school, in 1991 this figure had increased to 80 per cent . For males, it improved from 80.1 per cent in 1980 to 90 per cent in 1991. (*Population Census 1991*)

19. Consequently, the literacy differential between the sexes was reduced to 10 percentage points in 1991 compared to 16 percentage points in 1980. The overall literacy rate further improved to 93.8 per cent in 2000 as a result of continuing efforts to expand education opportunities to all citizens.

Labour and Employment

20. Overall, the labour force participation rate (LFPR) continued to increase during the period of the Seventh Malaysia Plan (1996-2000) at an average annual rate of 2.8 per cent to reach 62.9 per cent in 2000. Labour force participation during this time was affected by the economic crisis, which reduced employment opportunities and increased the number of workers who opted out of work under voluntary separation schemes. Nevertheless, the size of the labour force continued to increase albeit at a slower rate than during the period of the Sixth Plan, at 3 per cent per annum to reach 9.6 million in 2000.

21. A Labour Force Survey conducted by the Department of Statistics 2000 indicates that 53.0 per cent of the labour force is based in urban areas. The LFPR increased from 64.7 per cent in 1995 to 65.5 percent in 2000. In 1995, the male LFPR decreased marginally from 84.3 per cent in 1995 to 83.3 percent in 2000 while the female LFPR increased from 44.7 per cent in 1995 to 46.7 per cent in 2000.

22. The size of the labour force is expected to increase by an average annual rate of 3.1 per cent to reach 11.2 million persons by 2005, of which 5.1 per cent will be foreign workers. The labour force is expected to continue having a young age profile and to be better trained and educated. The LFPR is expected to increase to 66.6 per cent by 2005 with the rate for females rising to 46.2 per cent.

23. To augment the labour force during the period of labour shortages, the government liberalized its policy on foreign labour utilization. The end of 1995 saw a total of 649,680 temporary work permits issued to migrant workers. About two thirds of the temporary work permits were issued for work in the plantation and construction sectors, 11per cent for work in the manufacturing sector and 23 per cent for female domestic helpers.

General Political Structure

Political History

24. Three major periods in Malaysian history were largely responsible for shaping its current legal system.[1] The first period saw the founding of the Malacca Sultanate at the beginning of the 15th century; the second was that of the spread of Islam to south-east Asia and its subsequent entrenchment in the indigenous culture and the third and probably most significant for Modern Malaysia was the period of British colonial rule, which brought constitutional government and the common law system to the country.

25. The establishment of Malacca as a port in the 15th century resulted in Islam being spread to Malacca by Indian and Arab traders. Eventually, Islam became the state religion and Muslim laws were applied alongside customary law. Malacca was occupied by the Portuguese from 1511 to 1641, by the Dutch from 1641 till 1795, then by the British, reverting to Dutch control in 1801. In 1824, British rule was restored. These events brought with them the colonial system, which included the appointment of magistrates to try civil disputes and criminal cases, whilst local people continued to practice Islamic Law and Malay customs.

26. Britain established its colonial presence in the Malay Peninsula in the middle of the 18th century with the acquisition of the island of Penang in 1786. Sovereignty over Singapore (which was then part of Johor) was obtained in 1824 and Malacca was acquired from the Dutch in the same year. These three states became colonies. Many of the other Malay States came under British control through a series of treaties.

27. In states under the rule of the Sultans, the British imposed a system of indirect rule in contrast to the direct government practiced in the other states (known as the Straits Settlements.) The Malay States were theoretically independent and ruled by their respective sovereigns and their status was accepted and recognized by the English Courts. In some States, a council of State was set up to advise the Sultan; in others, the Rulers each accepted the office of a Resident-General who had exclusive authority over the administration of the State.

28. In 1909, the Federal Council was established. This formed the basis of the centralization of authority by the British. After the Second World War, during which Malaya fell under Japanese occupation, the Federation of Malaya was brought into being. It comprised the nine Malay States, but not Singapore. A High Commission, an Executive Council and Legislative Council were introduced and each state had its own Executive Council. The Council of Rulers was to meet regularly with the High Commissioner. The statutory introduction of English law occurred in 1937 and 1951, although English law had been practised previously.

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[1] Wu Min Aun, *The Malaysian Legal System*, first published 1990. The description of Malaysian political history hereafter are excertpts (with modifications) from the same.

29. In 1956, a Constitutional Conference was held in London in which an agreement was reached with the British government that full self-government and Independence within the Commonwealth should be proclaimed by August 1957. A commission known as the Reid Commission was appointed to make recommendations for a suitable constitution for the nation. These recommendations form the basis of the Federal Constitution. Malaya was granted independence on 31st August 1957.

30. The constitutional development of Sabah and Sarawak took a somewhat different path from that of the states in Peninsular Malaya. Sabah and Sarawak were British protectorates. They achieved independence in 1963 when they were merged with Malaya by way of the Malaysia Agreement and thus Malaysia was created. Special provisions were included to safeguard the interests of these two states, which feared that they would be overwhelmed by the population and administrative machinery of Malaya. Singapore left Malaysia in 1965.

Frameworks and System of Government

31. The Federal Constitution of Malaysia is both the basic and supreme law of Malaysia. It provides, for, among others, the following basic features of the nation:

(i) The establishment of Malaysia as a Federation comprising 13 states and three federal territories (Kuala Lumpur, Labuan and Putrajaya);

(ii) The division of powers between the Federal and the State authorities;

(iii) A constitutional monarchy; and

(iv) A Westminster type of parliamentary government which provides for the separation of power as follows:

  a) Legislative authority, the power to make law vested in Parliament (Part IV, Chapter 4 of the Federal Constitution);

  b) Executive authority, the power to govern which is vested in the *Yang di-Pertuan Agong* (the Supreme Head of the Federation) and exercisable, subject to the Federal Constitution; and

  c) Judicial power which is vested in the judiciary (Article 121 of the Federal Constitution.

(v) Islam as the official religion of the Federation with freedom to practise other religions is guaranteed under Article 3 (1) of the Federal Constitution.

The Head of State

32. The Paramount Ruler of the Federation is called the *Yang di-Pertuan Agong*. His Majesty takes precedence over all persons including the Rulers in the nine states in Malaysia (i.e. Terengganu, Perlis, Kedah, Perak, Selangor, Negeri Sembilan, Pahang, Kelantan, and Johor). Each of the other four states, namely Penang, Melaka, Sabah and Sarawak, are headed by *Yang di-Pertua Negeri* (Governor) who performs the functions of a titular Head of State but is not eligible to be elected as a Ruler. The Conference of Rulers consisting of the nine Rulers and the four Governors, elects the *Yang di-Pertuan Agong* from one of the Rulers in the nine states.

Federal and State Legislatures

33. Article 44 of the Federal Constitution states that the legislative authority of the Federation "shall be vested in a Parliament." The Parliament, which is elected for a maximum period of five years, comprises the *Yang di-Pertuan Agong*, the *Dewan Negara* (Senate) and the *Dewan Rakyat* (House of Representatives). Members of the *Dewan Rakyat* are elected by the people while the members of *Dewan Negara* are appointed by the *Yang di-Pertuan Agong*.

34. Each State possesses a one-chamber Legislative Assembly consisting of the Head of State and members elected by the people of that State except the state of Sabah where it has six members appointed by the Governor.

35. Both the Parliament and the State Legislative Assembly may make laws in accordance to the matters prescribed by the Federal Constitution, in particular the State List and the Federal List. The Federal Constitution also prescribes matters, which are under the Concurrent List of both State and Federal such as welfare, scholarships, sports and culture, housing, public health, town and rural development, protection of wildlife, civil defence, drainage and irrigation.

The Executive Authority

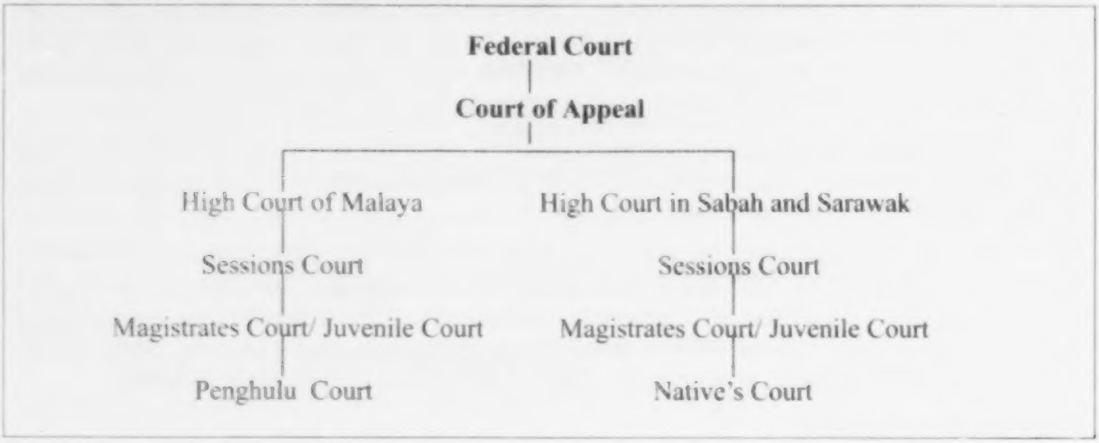
36. The executive authority of the Federation is vested in the *Yang di-Pertuan Agong*, exercisable by His Majesty or by the Cabinet or any Minister authorized by the Cabinet, subject to the provisions of the Federal Constitution.

37. The Prime Minister is appointed from the members of the *Dewan Rakyat*, who commands the confidence of the majority of the members of that House. The other Cabinet members and also the Deputy Ministers are appointed by the *Yang di-Pertuan Agong* on the advice of the Prime Minister.

38. At the State level, the executive authority is vested in the Ruler and the State Executive Council which is headed by a *Menteri Besar* for states which are headed by Rulers and *Ketua Menteri* for states which are headed by *Yang di-Pertua Negeri*. Appointment of the members in the State Executive Authority is governed by the State Constitutions and the processes of appointment are generally similar to the Federal practices.

The Judiciary

39. The diagram below illustrates the hierarchy of courts in Malaysia:



These are Federal courts. The only State courts are the *Syariah* Court (Islamic Courts), which exist in all states within the Federation, as Islam is a State matter.

40. The Head of the Judiciary is known as the Chief Justice of the Federal Court. The Court of Appeal comprises 11 judges and is headed by a chairman who is known as the President of the Court of Appeal. Each of the High Court in Malaya and High Court in Sabah and Sarawak is headed by a Chief Judge. All the judges are appointed by the *Yang di-Pertuan Agong* on the advice of the Prime Minister and the Conference of Rulers.

(i) Judicial independence is secured by the Federal Constitution. For instance, the judge holds office till 65 years of age. Removal of any judge from office can only be done on the grounds of breach of the Code of Ethics prescribed by the Federal Constitution or because of the inability of discharging responsibility due to infirmity of body or mind. This must be in accordance with an elaborate procedure set out in the Federal Constitution, which requires, among other things, the establishment of a Tribunal by the *Yang di-Pertuan Agong* consisting of not less than five judges or ex-judges to inquire into the matter.

41. The other securities, which are provided by the Federal Constitution, are as follows:

(i) Judges' salaries are provided for by an Act of Parliament and are drawn from the Consolidated Fund. Thus, they are paid automatically and are not subject to annual approval;

(ii) Judges' salaries and other benefits of office including pension rights may not be altered to their disadvantage after appointment; and

(iii) The conduct of a judge may not be discussed in either House of Parliament except on a substantive motion of which notice has been given by at least a quarter of the members of that House. State Legislative Assemblies may not discuss the conduct of a judge at all as the administration of justice and appointment of judges are the preserve of the Federal Government.

42. The jurisdiction of the Federal Court is as follows:

(i) Appellate jurisdiction i.e. to hear and determine appeals from the Court of Appeal's decisions;

(ii) Original jurisdiction i.e. to exercise jurisdiction over matters vested in it by Article 128(1) of the Federal Constitution;

(iii) Reference on constitutional issues involving the dispute between Federal and State referred to it; and

(iv) Advisory jurisdiction, where the *Yang di-Pertuan Agong* may refer to the Federal Court any question regarding the effect of any provision of the Constitution which has arisen or appears likely to arise, and the Federal Court shall pronounce in an open court its opinion on any question so referred.

43. The judicial personnel of the subordinate courts comprise the Sessions Court Judges and the First Class Magistrates. They are drawn from the Judicial and Legal Service Commission. The Second Class Magistrates are usually officers of court who are in the public service which are normally gazetted as Second Class Magistrates in the Districts level. The Penghulu's Court and the Native's Court are presided over by a Penghulu or Headman appointed by the State Government for an administrative district.

Human Rights

General Legal Framework

44. The Federal Constitution sets out the basic human rights standards for the country. The principal rights or provisions in the Constitution are:

a) Liberty of the person (Article 5);

b) Prohibition of slavery and forced labour (Article 6);

c) Protection against retrospective criminal laws and repeated trials (Article 7);

d) Equality before the law (Article 8);

e) Prohibition of banishment and the right to freedom of movement (Article 9);

f) Freedom of speech, assembly and association (Article 10);

g) Freedom of religion (Article 11);

h) Rights in respect of education (Article 12); and

i) Rights to property (Article 13).

45. Article 8 of the Federal Constitution clearly embodies the spirit of Article 7 of the Universal Declaration of Human Rights. The principle of non-discrimination contained in

CEDAW was incorporated into the Federal Constitution with the amendment of Article 8(2) to state that no discrimination is to be made on the ground of gender.

46. Legal redress against unlawful infringement of personal liberty is readily available in Malaysia. Any individual has the right to seek legal redress under the general laws in relation to any harm suffered by him/her and seek any restitution, compensation or damages in relation thereto.

The Human Rights Commission

47. In order to promote and protect human rights in Malaysia, the Government has established an independent Commission on Human Rights in 1999. The functions of the Commission is to:

a) Promote awareness of and provide education in relation to human rights;

b) Advise and assist the Government in formulating legislation and administrative directives and procedures and recommend measures to be taken;

c) Make recommendations to the Government with regard to the subscription or accession of treaties and other international instruments in the field of human rights; and

d) Inquire into complaints regarding infringements of human rights referred to it.

48. For the purpose of discharging those functions, the Commission has the power to:

a) Promote awareness of human rights and undertake research by conducting programmes, seminars and workshops; and disseminate and distribute the results of such research;

b) Advise the Government and/or the relevant authorities of complaints against such authorities and recommend to the Government and/or such authorities appropriate measures to be taken;

c) Study and verify infringements of human rights in accordance with the provisions of the Act;

d) Visit places of detention in accordance with procedures as prescribed by the laws relating to the places of detention and make recommendations;

e) Issue public statements on human rights as and when necessary; and

f) Undertake any other appropriate activities in accordance with the written laws in force, in relation to such activities.

49. In exercising the abovementioned powers, the Commission may, acting on its own or in response to a complaint made to it by an aggrieved person or group of persons, inquire into an allegation of the infringement of the human rights of such person or group of persons.

50. In this respect, the Commission has the power to procure and receive evidence, examine witnesses, require evidence be given on oath or affirmation as in a court of law, summon any person to attend any meeting of the Commission to give evidence or produce documents, admit

any evidence and admit or exclude the public from such inquiry. However, the Commission cannot inquire into any complaint relating to any allegation of the infringement of human rights which is the subject matter of any proceedings pending in any court or which has finally determined by any court. If an inquiry discloses an infringement of human rights, the Commission shall have the power to refer the matter, wherever appropriate, to the relevant authority or person with the necessary recommendations.

Information and Publicity

51. All national laws are published by the Government Printers in *Bahasa Melayu* (the official language). Translations into Chinese and Tamil and other vernacular languages are undertaken by either the news media or political parties representing these communities.

52. There is no official translation made to international instruments. However, the text of CEDAW was translated into *Bahasa Melayu*, Chinese and Tamil. The translated text was disseminated to various women non-governmental organisations in the effort to promote awareness among women at the grass-root level of the rights contained in the Convention. Seminars were conducted for officials from various relevant agencies such as the Attorney-General Chambers, the Ministry of Home Affairs, etc. These agencies were also responsible in preparing the CEDAW report.

53. The media – both print and electronic – in the official and vernacular languages contribute to making the public aware of their rights under the law and of international instruments pertaining to their rights.

54. Radio and Television Malaysia (RTM) is responsible to the Ministry of Information, which coordinates all Government mass media institutions – information, film, press liaison and broadcasting. Being a governmental body, RTM presents Government programmes and policies to the people. Besides promoting national unity it also stimulates public interest, develops national unity, civic consciousness and provides information and education.

55. Malaysia's national news agency, BERNAMA, provides valuable services not only to newspapers and news agencies, but also embassies, banks, universities, industrial firms and various organization through its news, economic and feature services. It also provides telecommunications facilities to subscribers for the distribution of news and other services such as economic and commodity news, share market and financial services, photographs and international features.

56. In addition to BERNAMA, there is the Malaysian Press Institute, the National Union of Journalist (NUJ) and PERTAMA, an association of women journalists established in 1972 that works closely with women's organisations and voluntary bodies.

57. Press freedom is regulated by the legislation governing the press such as the Printing Presses and Publications Act 1984 which regulates the use of printing presses and the printing, importation, production, reproduction, publishing and distribution of publications and for matters connected therewith.

58. Efforts will be intensified by the Ministry of Women and Family Development to promote awareness on women's issues, in particular non-discrimination against women among officials of relevant authorities through regular meetings of the inter-agency committee.

PART 2

ARTICLE 1

DEFINITION OF DISCRIMINATION AGAINST WOMEN

Introduction

59. The Federal Constitution of Malaysia is the supreme law of the land. Besides the Federal Constitution, there are other laws and policies that provide for non-discrimination. The report on this Article must therefore be read together with reports on other specific areas of concern.

The Federal Constitution

60. Article 4(1) of the Federal Constitution states that the "Constitution is the supreme law of the Federation and any law passed after *Merdeka* (Independence) Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void."

61. Articles 5 – 13 of the Constitution provide for the fundamental liberties of all persons in the Federation and these may be regarded as the basic human rights standards in Malaysia. As mentioned in Part 1 of this Report, the Federal Constitution enshrines and guarantees:

(i) Liberty of the person;

(ii) Prohibition of slavery and forced labour;

(iii) Protection against retrospective criminal laws and repeated trials;

(iv) Equality before the law;

(v) Prohibition of banishment and freedom of movement;

(vi) Freedom of speech, assembly and association;

(vii) Freedom of religion;

(viii) Rights in respect of education; and

(ix) Rights to property.

62. These human rights standards take into consideration of Malaysia's multi-racial society and are within the spirit of permissible national values, traditions, religions, customs, social and economic conditions in this country.

63. On August 1, 2001 Article 8(2) was amended in Parliament to include the word 'gender' and now reads as follows:

"Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground of religion, race, descent, place of birth and gender in any law or in the appointment to any office or employment under a public authority or in administration of any law relating to the acquisition, holding or disposition of any property or the establishing or carrying on any trade business, profession, vocation or employment."

64. As a result of this amendment, all existing laws are being reviewed to ensure gender equality. All new laws will also adhere to the principle of non-discrimination. Among the existing laws which are being reviewed are as follows:

- Domestic Violence Act, 1994;

  to examine the difficulties in obtaining the Interim Protection Order, the power of Judges and the need for counseling for victims as well as the lack of understanding of the provisions under the Act.

- Legislation related to rape such as the Penal Code, Criminal Procedure Code and the Evidence Act;
- Law Reform (Marriage and Divorce) Act 1976 in particular the provision of Section 51 pertaining to maintenance, division of matrimonial assets, issue of custody and the jurisdiction of the competent court; and
- Land (Group Settlement Areas) Act 1960, regarding rights of ownership in land, developed under land settlement schemes.

Discrimination – The Malaysian Perspective

65. There is no clear definition of the term 'discrimination against women.' However, for practical purposes, it is often interpreted to mean treating women differently to men to the detriment of women.

66. In Malaysia, there are customary and traditional practices that make a distinction between the role of men and women in the enjoyment or exercise of their civil, political, economic, social and cultural rights. The Government however, has taken positive measures to reduce discrimination by providing equal access to education, economic resources, political participation and employment. Generally, the law enacted in Malaysia did not make any distinction between men and women. However, there are special laws formulated to protect women from criminal acts, which are peculiar to women only such as rape.

67. Efforts have been taken by the Government through the establishment of the Ministry of Women and Family Development in January 2001 to educate, create awareness, monitor and formulate policies and programmes, which are women friendly. Since the establishment, the Ministry has embarked on programmes such as legal literacy to educate women of their rights, awareness campaign to the public at large to educate them to respect women's rights and dignity, sensitising policy makers, implementers and planners of the needs and interests of women.

ARTICLE 2

OBLIGATIONS TO ELIMINATE DISCRIMINATION

Introduction

68. In 1995, Malaysia took definitive steps to ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The first accession to the Convention was made with a number of reservations, as it was felt that the relevant articles were in contradiction with the provisions of the laws of the country. At the Fourth World Conference on Women in

Beijing the head of the Malaysian delegation explicitly expressed commitment to implement the Beijing Platform for Action and to review the reservations placed on the Convention:

"The fact that we are meeting at this Fourth World Conference affirms our commitment and preparedness to change.... The Platform for Action is a means for us to operationalise the commitment to lead to a fundamental change.... The Malaysian Government is committed to equal rights and responsibilities, equal opportunities and equal participation of men and women" (Dato' Seri Dr. Siti Hasmah Haji Mohd Ali, Head of Malaysian Delegation to the Fourth World Conference on Women in Beijing, 1995).

69. Following the Beijing Conference, steps were taken to review Malaysia's reservations to the Convention. As a result, reservations for Articles 2(f), 9(1), 16(b), (d), (e) and (h) were withdrawn and declarations were made for Articles 5(a), 7(b), 9(2) 16(1)(a) and 16(2).

The remaining reservations on the Articles are because they are in conflict with the provisions of the Islamic Sharia' law and the Federal Constitution of Malaysia.

National Commitments to Eliminate Discrimination

70. As noted previously, the Federal Constitution provides equal protection to all persons. In all spheres, the provisions in the Federal Constitution and in the law (for example, the provisions for participating in elections or for holding any political and administrative office or in terms of education) do not discriminate between men and women.

71. In fact, some laws are specifically aimed at the recognition and protection of women. Penal legislations such as the Penal Code enumerate specific offences against women such as assault or use of criminal force on a person with intent to outrage modesty[1], offences in relation to prostitution[2], rape[3], and offences relating to marriage[4] (such as cohabitation caused by a man deceitfully inducing a belief of lawful marriage or enticing, taking away or detaining with a criminal intent a married woman). Other legislation include the Child Act 2001 (Act 611) which protects girls against prostitution activities as well as provides for 'protection homes,' and the Domestic Violence Act 1994 (Act 521) (although the latter affords protection to male as well as female victims and thus is not specific to women, the Government and NGOs have recognised that the victims of domestic violence are mainly women).

72. In civil matters there are legislation such as the Married Women Act 1950 (Act 450), Married Women and Children (Maintenance) Act 1950 (Act 263) and other legislation which have provisions for women such as the laws relating to employment. For example, under the Employees' Social Security Act 1969 (Act 4), a husband's social security payment goes to his wife upon his death.

73. In addition, legislation have been enacted or amended by the Government on its own initiative or in response to calls by women's organisations in order to eliminate discrimination against women. These changes include:

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[1] Section 354 Penal Code
[2] Section 372-373 ibid
[3] Section 376 ibid
[4] Section 493-498 ibid

(i) Amendments to the Income Tax Act 1967 (Revised 1971) (Act 53) to allow wives to elect for separate assessment of their income for tax purposes in 1975. Previously, a wife had to be taxed jointly with her husband;

(ii) Amendments to the Penal Code in 1989 to enhance the penalties for rape and in 2002 to enhance penalties for offences relating to prostitution;

(iii) The enactment of the Domestic Violence Act in 1994 (Act 521) to provide protection for battered wives and other victims of domestic violence;

(iv) Amendments to the Distribution Act 1958 (Act 300) in 1997 to repeal the distinction between wives and husbands in terms of the distribution of the estate of an intestate to the surviving spouse. Previously, a wife who survives her husband is entitled to only one-third of her husband's estate but the surviving husband is entitled to his wife's whole estate;

(v) Amendments to the Guardianship of Infants Act 1961 (Act 351) in 1999 to give legal recognition to the parental rights of mothers. Previously, only the father of an infant was recognized as the guardian of his/her infant's person and property. The Act now provides that: "In relation to the custody or upbringing of an infant or the administration of any property belonging to or held in trust for an infant or the application of the income of any such property, a mother shall have the same rights and authority as the law allows to a father, and the rights and authority of mother and father shall be equal." This law is only applicable to non-Muslims in Malaysia; however, the Act specifies that it shall also apply to Muslims in states, which adopt the law. So far four states have adopted it. At the federal level, to address the issue of equal guardianship rights to Muslim mothers, a cabinet directive was issued in September 2000 to allow mothers to sign all documents related to their children. This ensures that all Malaysian women irrespective of race and religion are conferred the right of equal guardianship;

(vi) An amendment to Article 8 (2) of the Federal Constitution in 2001 to expressly prohibit discrimination on the ground of gender;

(vii) The abolishment of immigration regulations, which discriminate against Malaysian women, married to foreigners. From September 1 2001, foreign men married to Malaysian women are allowed to stay in the country longer (one year as opposed to the previous 3 months) and their social visit pass can be renewed on a year-to-year basis until they gain employment. Also, foreign women who are divorced or separated from their Malaysian husbands after settling in Malaysia can apply for a social visit pass on a year-to-year basis, subject to approval by the government. Previously, they had to return to their countries once their social visit pass expired, and apply for a new one from there; and

(viii) Under the Pensions Act 1980 (Act 227), widows lose their pensions if they remarry. The Government has rightly recognised the problems faced by widows who remarried. Therefore, during the year 2002 budget speech in October 2001, the

Prime Minister announced that widows will continue to receive pensions even after they remarried. The Pensions Act was amended to this effect in January 2002.

International Commitments

74. In addition to CEDAW, Malaysia is a party to other international instruments, which protect the rights of women such as the Convention on the Nationality of Married Women and the ILO Convention No. 100 (on equal remuneration for men and women workers for work of equal value).

Conclusion

75. The Malaysian Government has responded to calls for review of laws from various sectors. Through the Ministry of Women and Family Development, it has provided forums for debates on areas of concern identified by women's organisations and legal groups. It also recognizes that legal provisions alone cannot eliminate discrimination. Providing education and training, implementing legal literacy programmes and upgrading health status and facilities as discussed in the following chapters are also important in achieving the objective of eliminating discrimination against women and promoting the advancement of women in all sectors of the economy.

ARTICLE 3

THE DEVELOPMENT AND ADVANCEMENT OF WOMEN

Introduction

76. Malaysian laws pertaining to the political process, education, the economy and social rights do not discriminate against women. In addition to the laws, which are generally supportive, the National Policy on Women (1989) accords women equality of status and the same fundamental rights accorded to men, as enshrined in the Constitution. But because women are late starters in many fields, affirmative action is needed to assist them in attaining self-confidence as the equals of men, seeking advancement under the opportunities afforded by the national development plans and in assuming increasingly larger roles outside the home and family.

The National Policy on Women

77. The National Policy on Women, which was formulated by the Government in 1989 was closely aligned with the Sixth Malaysia Plan (1991-1995) and the Outline Perspective Plan (1990-2000). It recognises that poverty, lack of education and sometimes culture and tradition are major hindrances to women's progress. The policy also recognises the international efforts, which have been made to improve the status of women, and thus draws on a number of international documents, in particular the Nairobi Forward Looking Strategies for the Advancement of Women and the Declaration of the Commonwealth Ministerial Meeting on Women in the Bahamas.

78. Initiatives such as the National Policy on Women and the inclusion of a special chapter on women and development in the Sixth Malaysia Plan have resulted in administrative policies becoming more gender aware.

Women's Situation in Malaysia

79. Some practices have proved hard to change due to entrenched assumptions about gender roles in society. It is clear, though, that change *is* taking place. For instance, as women become more educated and career minded they are able to fit easily into the workforce. Some indicators of women's situation in Malaysia are:

(i) In the political process, women have had the right to vote since 1957. They have exercised this right and become members of various political parties. However, so far they have mostly played a supportive role to men except in the women's wings of political parties, where women elect and choose their own leaders. There are no gender based political parties. Capable women leaders have been given the opportunity to contest in elections for their constituencies at both Federal and State levels. Women comprise 10% of the House of Representatives or of the State Assembly. In the Senate their numbers increased to nearly 25% (see Article 7: Political and Public Life);

(ii) Access to social services is, to some extent, culturally and socially determined. Not as many women as men frequent recreational clubs or use sporting facilities. Women, especially married women, tend to be house-bound and to spend most of their leisure time with their children and other family members. But there is no law prohibiting their access to social services. Women form and join social clubs and voluntary organizations, and avail themselves of the amenities provided by the community;

(iii) Access to health and medical care is a priority area in national development programmes. Hospitals, maternal and health clinics, immunization programmes, family planning services, reproductive cancer screening, nutritional, health education and curative and rehabilitative services are continually being expanded, improved and upgraded. Both public and private hospitals and clinics are increasingly being made conscious of the need to be women and elderly friendly;

(iv) Girls' access to education has improved tremendously through the building of more schools, notably girls' primary and secondary schools and residential schools for girls in the rural areas. For lower income groups, the government provides financial aid in the form of junior scholarships and bursaries, a textbook loan scheme, free uniforms and subsidised transportation to schools for students irrespective of sex;

(v) Access to employment is determined by educational qualifications, aptitude and relevant skills. Generally, there is no discrimination in employment recruitment policies on the basis of gender. However, there is a tendency for women to gravitate towards traditionally women-identified occupations e.g. teaching, nursing and secretarial work. This pattern is gradually changing as women are being encouraged to enter other fields, especially those to do with science and technology or management;

(vi) Ownership of property is a right enshrined in our Constitution and women may inherit, acquire or dispose of their property. Within the *Minangkabau* matriarchal community, ownership of heredity or tribal lands is restricted to women; and

(vii) Social welfare is enjoyed by financially disadvantaged, handicapped or disabled men and women. There are special initiatives to assist single parents such as income generating projects, loan schemes and housing facilities. In addition, shelters for abused and battered women and children are provided by both governmental as well as voluntary organisations.

80. Human rights and fundamental freedoms as laid down in the Constitution are guaranteed for both men and women. In both the civil and *Syariah* (Islamic) legal systems, men and women are subject to the same laws. However, there are provisions which make a distinction between the sexes e.g. in relation to the issue of citizenship in cases of marriage between a Malaysian and a foreigner; or in Islamic family law where men are mandated as providers and enjoy privileges in relation to divorce, the distribution of property and inheritance. (This will be discussed in detail in the relevant sections).

81. Within the family there is often equality between husband and wife. In many cultures in Malaysia, the man is normally the head of the household while the wife is subservient and has to attend to his needs and comfort as well as take care of the children and elderly relatives in an extended family. But this pattern is slowly undergoing a transformation with the advent of modern appliances and gadgets, and due to the fact that many women are now employed outside the home.

Strengthening the National Machinery for Women

82. Significant progress has been made in setting up of the required institutional and administrative machinery to plan, coordinate implement and monitor development progress of women, among others are;

(i) Establishment of the Ministry of Women and Family Development on January 17, 2001 which marks the culmination of efforts to strengthen the national machinery for women;

(ii) The National Advisory Council on Women, Inter-Ministerial Committees on Women, Inter-Ministerial Committees on Women, Technical Working Groups, and the various state level liaison and consultative committees, task forces and ad hoc committees on women's issues;

(iii) Appointment of representatives from NGOs such as the National Council of Women Organisations (NCWO) and All Women Action Malaysia (AWAM) to sit on various advisory councils in order to promote co-operation between governmental agencies and NGOs;

(iv) Women's Service Centres (WSC) at the state level and district to provide services such as training, counselling and as a one-stop information centre for women's programmes. At present, 14 WSC were established at the state capitals and 15 at the district level;

Programmes to Strengthen the Advancement of Women

83. To further enhance gender equality, the following measures have been taken:

(i) Amendment to Article 8(2) of the Federal Constitution on 1st August 2001 to disallow discrimination on the basis of gender apart from on the grounds of religion, race, descent and place of birth. Revision of other laws to tackle issues and problems related to the advancement of women;

(ii) The allocation of special funds for women's advancement by the Treasury and the Ministries of Entrepreneurial Development, International Trade and Industry, National Unity and Social Development, Rural Development and Youth and Sports (refer to Article 4). Through the *Tabung Ekonomi Kumpulan Usaha Niaga (TEKUN)*, up to April 2003 about 34,476 women benefited with the allocation of RM130.3 million, while RM26.7 million was approved to 379 borrowers under the Special Scheme for Women under the Small and Medium Industries Corporation;

(iii) Establishing/enhancing systems and facilities to make it more viable for women to join or remain in the workforce, for example, increasing infant and child care centres, liberalising policy on the recruitment of foreign domestic maids, increasing flexibility on the duration of leave for maternity and child care (from 42 days to 60 days in both the public and private sectors, and allowing extended leave without pay if necessary). Extended paternity leave to seven days for public servants. Flexitime and part time work is offered where possible and in some sectors, female employees are provided accommodation and transportation to and from work (e.g. in the electronic industry) (refer to Article 11);

(iv) Develop Gender Disaggregated Information System (GDIS) to monitor the progress of women's programmes and activities.

(v) Provide special grants to help NGO's implementing training and capacity building for women;

(vi) Launching various campaigns such as the 'Keluarga Bahagia' (Happy Families), 'Caring Society,' 'Legal Literacy,' and the 'Morality and Character Building for Children and Youth,' campaigns; Women Against Violence Campaign (WAVe) and the establishment of one-stop crisis centres; and

(vii) Conducting gender-sensitisation trainings for policy and programme implementers.

ARTICLE 4

ACCELARATION OF EQUALITY BETWEEN MEN AND WOMEN

Introduction

84. The amendment on Article 8(2) of the Federal Constitution has sparked the necessity to review various existing laws and policies. Prior to the amendment, in 1989 the Government has formulated the National Policy on Women. With the amendment, this policy is now being reviewed and improvised to take into account the new challenges faced by women at national and international levels.

85. Although the Government has not yet practised the quota and preferential rules, various measures have been taken to accelerate equality between men and women. The meritocracy system in admission to higher learning institutions in Malaysia has witnessed that the enrolment of female students outnumbered the male students.

Positive, Temporary and Affirmative Actions

86. Major affirmative actions that have been taken are:

(i) To reduce poverty among women, the Ministry of Entrepreneurial Development and the Ministry of Rural Development have introduced income-generating projects for women, provided incentives for home-based industries and introduced marketing schemes for their products;

(ii) To increase the women participation in business, the Women Entrepreneurs Fund has been established since 1998 with an allocation of RM10 million. Another RM10 million has recently been allocated to this Fund and a total of 12 projects amounting to RM9.5 million were approved under the Fund. In addition to that, the amount approved for the Special Assistance Scheme For Women Entrepreneurs under the Small and Medium Industry Development Corporation (SMIDEC) has also increased from RM11.5 million to RM18 million between 1999 and 2002;

(iii) Scholarships are provided for those who have the capacity to pursue tertiary education. In order to encourage greater female participation in Polytechnics, females received the bulk of the Diploma in Education and First Degree Scholarships for the Federal Teaching Scholarship. In 1998, out of 8022 scholarships/ loan recipients, females received 4,910 (61.2 per cent) of the scholarships; and

(iv) Inequality between men and women in the family are addressed by various measures aimed at achieving more equitable sharing of parental roles and household and family responsibilities. These include conducting campaigns such as the 'Strengthening the Family Unit,' and 'Good and Effective Parenting,' campaigns as well as running and promoting child care programmes.

ARTICLE 5

SEX ROLES AND STEREOTYPING

87. The role and status of women in Malaysia have undergone a profound change in the past four decades. With increased access to education, employment opportunities and changes in the socio-cultural environment, Malaysian women have progressed and participated effectively in all aspects of development in the country. Changes in socio-cultural environment, which have helped to shape the profile of Malaysian women today, will continue to impact on women's standing in society.

88. The Government of Malaysia's commitment to improving the status of women has intensified over time. Mainstreaming gender into social and economic development plans is a continuous process being undertaken by line ministries and state agencies. Malaysia is an example of a country that has, since gaining independence, made great progress in improving the life and status of women, particularly in providing them with ever-increasing opportunities to become stakeholders in the country's economic development.

89. However, women's ability or potential to participate in society and to move towards autonomy and independence has often been curtailed by the widespread stereotyping of women as followers and supporters rather than leaders or equal partners in Malaysian society. This stereotyping feeds into and perpetuates the commonly held assumptions that women's role should be limited to the domestic sphere or that even if women have careers, they are fully and solely responsible for the welfare of the home and family, and is the starting point of inequalities at the societal level. Consequently, women have little opportunity to develop their leadership and decision-making skills in the public domain.

90. Various cultural and institutional factors which are predicated on restrictive notions of a woman's role in society often intersect to form barriers to the advancement of women's career and upward mobility in an organization. It is a common observation that a working or career woman is faced with the difficult situation of having to perform and cope with multiple roles as a wife, mother and worker. Given the intense pressure posed by social conditioning and cultural imperatives to conform to the idea that a woman's duty is first and foremost to her children and husband, it is not surprising that many women choose to prioritise their family rather than their career.

91. Malaysian women's rights as citizens are implicitly recognized and guaranteed by the Federal Constitution. Article 8, clause 1 of the Constitution states that "all persons are equal before the law and entitled to equal protection of the law." Clause 2 further provides that "except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in administration of any law relating to the acquisition, holding or disposition of any property or the establishing or carrying on of any trade, business, profession, vocation, or employment." This clause was recently amended to include the word 'gender'.

92. Gender roles and ethnicity have been found to impact women's participation in nation building. In the construction of gender role, each ethnic group in Malaysia is influenced by Asian

values, which determine the role of women in the domestic / private sphere while men dominate the public sphere. The Malays are influenced by the customs or "adat" and religious (Islamic) teachings. However, Islam accords equal rights to men and women alike. In fact, Islam is the key to women's emancipation and liberation. Islam does not forbid women from seeking an education or from pursuing work. On the contrary, Islam encourages women to be educated, work, own property and engage in business. It has elevated the value and worth of a woman to an unprecedented status in society. Likewise, the Indian community is also influenced by the Hindu religion and Indian customs. The Chinese, on the other hand, determine gender roles through customary rather than religious practices.

93. Meanwhile, the political behaviour of women is moulded by the political culture and tradition of the political party, which defines women's role in a particular way. Hence, women politicians cling to the 'right image' as approved and endorsed by both men and women in the party and society at large. In this way, controversy or instability is avoided within the main party itself. The women politicians in UMNO, MCA, MIC and Gerakan are in the ruling class league and their views or public posture reflect the ideology of the ruling party.

94. Lack of critical mass is another stumbling block in the way of moving the agenda of women speedily forward. Due to the fact that there are only a few women in leadership positions in key institutions like political parties, top ministries and executive and legislative bodies, women are viewed as not only lacking the political clout but also the 'critical mass' or collective bargaining power in key positions to effectively influence decision making processes and shape the party or government agenda.

95. Although the ideas about the role of women have changed and become more liberal among the educated or modern communities in Malaysia, there are still many people who cling to the traditional socio-cultural stereotypes and attitudes about the role of women. These conservative and traditional attitudes are highlighted in the literature on women in primary school textbooks. These books portray women's primary role as a wife and mother. Women are not presented as having the abilities and potential for developing professional careers. Men are considered having the responsibility to provide money, shelter and safety for their wives and family. The Ministry of Women and Family Development has requested the Ministry of Education to eliminate these stereotypical images and representations of women and to ensure that women in textbooks and education programmes are presented in diverse occupations and roles rather than solely as wives and mothers. Thus far, the Ministry of Education has introduced a subject called Living Skills into the education curriculum. This subject is open to both male and female students, where the male students can join classes that teach domestic science while the female students can join carpentry classes. This is in line with the Government's effort to eliminate the stereotyping of gender roles.

96. It cannot be denied that Malaysian women have made considerable strides in the political and public arena. The few Malaysia women who have made it to the top have proven their capabilities and shown that the policies of the Government are not overly discriminatory. However, gender-blind elements in the recruitment, posting and promotion in the public service often results in under-representation of women at the decision-making level. At almost every level, female managers face more obstacles than their male counterparts in career mobility,

particularly at the managerial level. The multiple roles of being a wife, mother and career woman also hampers the upward mobility of women.

97. Existing trends in the mainstream public and private sectors display pyramidal structures, with male executives at the apex and the base comprising mostly female employees (typists, clerks and secretaries). This indicates that public and private sector female employees are mostly in lowly-paid jobs and there are too few women in the upper echelons of public service or private corporations.

98. Education is seen by the Malaysian Government as an important tool in eliminating stereotypical or prejudiced views or women. In recognition of this fact, a full-fledged commitment by the government has been undertaken to educate, train and develop its national work force as a measure towards nation building and economic development; and emphasis is laid on encouraging girls to take advantage of the various courses and programmes of study offered by the Education Ministry, including traditionally male-identified courses. Despite the increasing number of female students at primary, secondary and tertiary levels, the concentration of female students in the arts, economics and business courses persists at all levels.

99. Female students tend to dominate the optional courses such as home economics and commerce, and are the minority in engineering courses. Although there is no intentional segregation, the cultural practices and socialization processes have a large part to play in students' choice of courses and perpetuate the predominance of girls in traditionally female-identified courses and boys in traditionally male-identified ones. Considerable efforts are now being made to encourage female students to venture into science and technology courses. Gender sensitisation among parents and all parties in the school system will be carried out to ensure that the streaming of boys and girls will not be directed by the traditional gender role ideology. Professional women's associations or women-based non-governmental organizations should also work on overcoming the inferior self-image of women in traditional male-dominated professions.

100. Meanwhile, The National Population and Family Development Board, an agency under the Ministry of Women and Family Development had organized various workshops and seminars on parenting. The number of programmes and participants involved are as follows:

Year	No. of Programmes	No. of Participants
2000	225	35,980
2001	345	50,806
2002	691	132,841

101. The workshop/programmes/activities, which had been carried out, focused on both the husband and wife who play equal roles in family development. These programmes will help to lessen the effects of stereotyping within a family.

102. Legal reform was implemented to eliminate stereotypical perceptions in the law. For example, the Distribution Act 1958 which was premised on the understanding that women would not have the capacity to administer their property on the death of the husband was amended with

effect from 30 August 1997. This amendment provides for a more equitable distribution of an interstate's estate to the beneficiaries, especially women. Previous to the amendments, the husband of a deceased woman would receive the whole of her estate, while the wife of a deceased man would only receive one third of his estate if he had children, or one half if he had no children. However, this discrimination against women has been removed with the amendment to the Distribution Act. With the amendments, if either spouse dies, the surviving spouse shall take one-half and the parents of the deceased take one-half.

103. Another area of law reform is the enactment of the Domestic Violence Act 1994. While this act is meant to protect both women and men from spousal abuse, most reported cases indicate that it is women who are seeking the protection of this act. In the year 2000, out of a total of 2,462 reported cases of domestic violence, 98 per cent of the victims were women. The value of this act is that it contributes to the elimination of a culture that gives men authority to abuse their spouses.

ARTICLE 6

SUPPRESSION OF THE TRAFFICKING AND EXPLOITATION OF WOMEN

Introduction

104. Malaysia has introduced various laws in its efforts to eradicate or to minimize the exploitation of and discrimination against women. The Royal Malaysian Police is the main law enforcement agency, while the Social Welfare Department is responsible for the protection and rehabilitation of women below the age of 21 who have been victimized or coerced or forced into prostitution. Together with the other local agencies, the Police have taken all measures possible to enforce the laws, continuously monitor the situation and to undertake preventive actions and instigate criminal proceedings against those who traffic or exploit women for the purpose of prostitution.

Laws Protecting Women From Exploitation

105. 'Trafficking in persons' is not specifically criminalized in Malaysia; nevertheless there are laws in the country aimed at and used to combat trafficking in persons, including women. Offences under these laws include the recruitment, transportation transfer, harbouring and receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability or the giving or receiving of payments or benefits to get consent (of the victim) for the purpose of exploitation by way of prostitution and other sexual activities, forced labour, servitude and slavery. The following are the various laws that have been enacted in Malaysia to protect women from trafficking and exploitation:

i) The Federal Constitution

Article 6(1) provides that no person shall be held in slavery while Article 6(2) prohibits all forms of forced labour except compulsory service for national purposes prescribed by federal law.

ii) The Immigration Act 1959/1963 (Act 155)

Section 55A makes it an offence for any person to be involved, directly or indirectly, in conveying to Malaysia in or on any vehicle, vessel or aircraft any person in contravention of the Immigration Act 1959/1963. The penalty is fine of not less than RM10, 000 but not more than RM50,000, imprisonment of not less than two and not more than five years and whipping of not more than six strokes. If a body corporate is culpable, a fine of not less than RM30, 000 but not more than RM 100,000 will be imposed.

Section 55B makes it an offence to employ one or more persons, other than a citizen or holder of an Entry Permit, who is not in possession of a valid Pass. The penalty is a fine of not less than RM10, 000 but not more than RM50, 000 for each such employee.

Section 56(1) (d) makes it an offence to harbour any person whom that person knows or has reasonable grounds to believe has acted in contravention of the Act. The penalty provided under Section 57 is a fine not exceeding RM10, 000 or imprisonment for a term not exceeding five years.

iii) The Penal Code

Section 370 makes it an offence to import, export, remove, buy, sell or dispose of any person as a slave or to accept, receive or detain any person against his will as a slave.

Section 371 makes it an offence to habitually import, export, remove, buy, sell, traffic or deal in slaves.

Section 372 makes it an offence to:

a) sell, let for hire, otherwise dispose of, or procure, buy, hire or otherwise obtain possession of any person –

    i) with intent that such person is to be employed or used for the purpose of i) prostitution, within or outside Malaysia and ii) having sexual intercourse with any other person, within or outside Malaysia.

    ii) knowing or having any reason to believe that the person will be so employed or used.

b) by or under any false pretence, false representation or fraudulent or deceitful means, made or used, either within or outside Malaysia-

    i) bring or assist in bringing into Malaysia or take out or assist in taking out of Malaysia any person with the intention that the person is to be employed or used for the purpose of prostitution, whether within or outside Malaysia and having sexual intercourse with any other person whether within or outside Malaysia.

    knowing or having reason to believe that the person will be so employed or used.

c) receive or harbour any victim

d) wrongfully restrain any person in any place with the intention that the person will be used or employed for the purpose of prostitution or of having sexual intercourse with any other person

e) offer any person for the purpose of prostitution through advertisements or other notices or seek information for that purpose or accept such advertisement or notice for publication or display

f) act as an intermediary on behalf of another or exercise control or influence over the movements of another in such manner as to show that the person is aiding or abetting or controlling the prostitution of that other

Section 372A makes it an offence to knowingly live wholly or in part on the earnings of the prostitution of another person. Section 372B makes it an offence to solicit or importune for the purpose of prostitution or any immoral purpose in any place.

Section 373 makes it an offence i) to keep, manage or assist in the management of a brothel and ii) for the owner or occupier to knowingly or wilfully let the place or any part thereof to be used as a brothel.

Section 373A makes it an offence for any person –

a) by any false pretence, false representation or fraudulent or deceitful means, to bring, or assist in bringing, into Malaysia any woman with intent that such woman may be employed or used for the purpose of prostitution;

b) to bring, or assist in bringing, into Malaysia any woman with intent that such woman may be sold or bought for the purpose of prostitution; or

c) to sell or buy any woman for the purpose of prostitution.

Section 374 makes it an offence to unlawfully compel any person to labour against his will.

iv) The Anti-Money Laundering Act 2001 (AMLA) (Act 613)

The Anti-Money Laundering Act 2001 (AMLA) makes Sections 370, 371,372,373 and 373A predicate offences under the Act. This enables the proceeds of such unlawful activities to be dealt with under the Act and subjects it to freezing, seizure and forfeiture. The Central Bank of Malaysia is in the process of adding Section 374 of the Penal Code to this list. Further, under Section 4, it is an offence to launder such proceeds of unlawful activities. The prescribed penalty is a fine not exceeding RM5 million or imprisonment for a term not exceeding five years or both.

AMLA also empowers the Central Bank of Malaysia to monitor suspicious transactions by requiring financial institutions to submit reports on such activities. The Central Bank is also empowered to disseminate this information to enforcement agencies for their further action. These powers may facilitate action by law enforcement agencies against traffickers in persons. Section 29(3) expressly empowers domestic enforcement agencies to cooperate with other enforcement agencies, in and outside Malaysia, with respect to offences under the Act

Other actions that may be taken under AMLA include:

- the freezing of dealings in any movable property that is the subject matter of a money-laundering offence that is in the possession, custody or control of a financial institution on the direction of the Public Prosecutor (Section 50).
- the seizure of immovable property that is the subject matter of a money-iaundering offence on the direction of the Public Prosecutor (Section 51).
- the forfeiture of property seized under the Act by the Public Prosecutor under an order of the High court where there is no prosecution or conviction for a money-laundering offence if the Public Prosecutor is satisfied that such property had been obtained as a result of or in connection with a money-laundering offence (Section 56).

v) Restricted Residence Act 1993 (Act 337)

Women who have been forced into prostitution and their clients are often reluctant to testify in court because of the fear of violent reprisals by vice syndicates of the resulting social stigma attached to being a 'prostitute' or of patronising sex workers. The Royal Malaysian Police have successfully invoked the Restricted Residence Act 1933, to control activities, which are against public order e.g. smuggling or immoral activities. The rationale is to take the person out of the area where undesirable activities are being conducted or prohibiting him for entering such an area so that he would not be able to carry out such activities. In 2002 about 12,564 inspections have been made on prostitution activities and about 175 under age girl secured and 5148 foreign prostitute arrested.

vi) Prevention of Crime Act 1959

The Prevention of Crime Act 1959 stipulates that the "registrable categories" to include also all traffickers in women and girls, including persons who live wholly or in parts on the proceeds of prostitution. (First Schedule Part 1(4)). The traffickers in women and girls shall be subject to the supervision of the police and other restrictions as prescribed in the Act for any period not exceeding five years and the Minister may renew any such order for a further period or periods not exceeding five years at a time.

Forms of Exploitation of Women

106. From the perspective of the Police, action against the exploitation of women can only be taken if such exploitation is criminal in nature. There are enough provisions in the law for action to be taken against those who live off the immoral earnings of women e.g. pimps, vice den operators and/or any other persons who are involved directly or indirectly in the sex industry. Malaysia is also a signatory to the Convention against Transnational Organised Crime, which has a Protocol to Prevent Trafficking in Women and Children.

Laws Pertaining to Violence against Sex Workers

107. There are no special provisions relating to violence against a sex worker and in such an instance, the offence would come under the Penal Code, which legislates against acts such as assault, using criminal force, wrongful restraint or confinement and causing hurt or grievous hurt. The Domestic Violence Act 1994 (Act 521) which provides legal protection for victims of violence in the home supplements the offences under the Penal Code in terms of protection for the victims.

108. The Penal Code therefore affords sex workers protection against violence. However, negative social attitudes towards sex workers make it difficult for the Government to act against the perpetrators. The Government in 1989 has amended the Evidence Act, 1950 to prohibit questions being posed to a rape victim on her sexual history in court.

(i) Section 146A states that "notwithstanding anything in the Evidence Act of 1950, in proceedings in respect of the offence of rape, no evidence and no questions in cross-examination shall be adduced or asked, by or on behalf of the accused, concerning the sexual activity of the complainants with any person other than the accused unless;

(ii) It is evidence that rebuts or a question, which tends to rebut, evidence of the complainant's sexual activity or absence thereof that was previously adduced by the prosecution;

(iii) It is evidence of, or a question on, specific instances of the complainant's sexual activity tending to establish the identity of the person who had sexual contact with the complainant on the occasion set-out in the charge; or

(iv) It is evidence of, or a question on, sexual activity that took place on the same occasion as the sexual activity that forms the subject matter of the charge, where that evidence or question relates to the consent that the accused alleges be believed was given by the complainant."

Protection and Rehabilitation of Victims of Exploitation

109. The Social Welfare Department is responsible for providing protection, rehabilitation and counselling to girls and women below 18 who have been involved in vice and prostitution. The Department has five rehabilitation centres throughout the country. Inmates of these centres usually fall into two main categories:

(i) Girls who have been found to be exposed to moral danger or involved in prostitution or in need of protection under Child Act 2001 (Act 611); and

(ii) Those whose parents have made formal applications to the Protector for their daughter to be given protection because she is in the company of brothel or vice den operators, and is very vulnerable to being sexually exploited or coerced/forced into prostitution. 'Protector' is defined by the Child Act as referring to persons such as Director General of Social Welfare, the Deputy Director General of Social Welfare, Divisional Director of Social Welfare, Department of Social Welfare, the State

> Director of Social Welfare of each of the States and such Social Welfare officers appointed by the relevant Minister.

110. At the end of year 2001, about 626 women inmates under *Taman Seri Puteri* Rehabilitation Centre, which is managed by the Social Welfare Department. Under this institution, rehabilitation is conducted through education (formal and non formal) as well as vocational training for instance handicrafts, ICT literacy and other relevant skills to prepare them for re-entry into society.

111. Cases of domestic violence reported to the Royal Police Department were on the rise at the beginning of the enforcement of the Domestic Violence Act. For instance, it increased to over 3,000 in 1999 and 2000. However, the statistics of the same case show some declination in the year of 2001 and 2002. This is contributed by the successful awareness campaigns as well as other programmes against violence, which was taken by the Government especially through the Ministry of Women and Family Development.

ARTICLE 7

POLITICAL AND PUBLIC LIFE

Introduction

112. In Malaysia, there is no legal discrimination against a person based upon gender with respect to participating in the electoral process and holding elected offices. Malaysian women are conferred with the right to vote since Independence. Therefore women in Malaysia are not prohibited from participating in election at any level of office and are free to participate in political movement. There are also no legal barriers to women's participation in public life. In both these spheres, however, women are still under-represented.

Political Life

Voters

113. The Constitution guarantees an individual's right to vote so long as he or she is a citizen of the Federation, has attained 21 years of age on the qualifying date and is residing in the relevant constituency on the qualifying date. Disqualification as a voter occurs under specific circumstances such as if a person is found to be of unsound mind or is serving a sentence of imprisonment.

114. In 1999, there were a total of 9,509,332 registered voters out of which 49.8 per cent (or 4,737,395) were women and 50.2 per cent (or 4,771,937) were men.

Women in Parliament

115. The Malaysian Parliament is modelled after the Westminster system with a Lower House of elected representatives and an Upper House of appointed senators. Since Independence (1957) and the first election to the then Federal Legislative Assembly in 1959, the number of female candidates elected to Parliament has increased at a moderate rate. For example, in the 1959 elections, only 2.9 per cent (three candidates out of 104) of the candidates elected to office in the

Lower House were female. This increased to 4.1per cent in 1986, 7.3 per cent in 1995 and 10.4 per cent in 2000.

116. The number of women elected to the various State Assemblies during this period also increased gradually, rising from a mere 2.7 per cent in 1986 to 4.8 per cent and 5.5 per cent in 1995 and 2000 respectively. However, the number of women ministers at the Federal (national) level remained almost constant throughout this period with two women ministers in the Cabinet out of a total of 28 full cabinet ministers. Due to the establishment of a new ministry, the Ministry of Women and Family Development, in 2001, there are now three women cabinet ministers.

117. Table 7.1 shows the proportion of women who have been elected or appointed to various offices at the Federal and State level. Table 7.1 also shows the total number of elected state representatives. It can be seen that the number of women in these elected offices, though small, has been increasing steadily.

Table 7.1: Women in Elected/Appointed Offices in 1986, 1990, 1995 and 2000

Position	**Year**	**Number of Men**	**Number of Women**	**Total**	**% of Women**
Members of Parliament	1986	164	7	171	4.1
	1990	162	9	171	5.3
	1995	166	13	179	7.3
	2000	173	20	193	10.4
State Assembly Representatives	1986	435	12	447	2.7
	1990	428	15	443	3.4
	1995	474	24	498	4.8
	2000	476	28	504	5.5
Appointed Senators	1986	49	11	60	18.3
	1990	45	10	55	18.2
	1995	46	11	57	19.3
	1998	48	14	62	22.6
	2000	45	17	62	27.4
Ministers	1990	23	2	25	8.0
	1995	23	2	25	8.0
	2000	26	2	28	7.1
Deputy Ministers	1990	27	3	30	10.0
	1995	28	2	30	6.0
	2000	25	2	27	3.8
Parliamentary Secretaries	1990	14	-	14	0.0
	1995	15	2	17	11.7
	2000	12	3	15	20.0

Source: Malaysian Parliament

118. In Malaysia, the State administration is headed by a Chief Minister or *Menteri Besar* and an Executive Council (Exco) in case of peninsula or a State Cabinet in case of Sabah and Sarawak. Table 7.2 shows the proportion of male and female Exco members and State Assembly Representatives in the year 2000:

Table 7.2: Members of Exco and the State Assembly According to Sex in 2000

State Body	2000			
	Male	**Female**	**Total**	**% Women**
Exco	73	7	80	8.8
State Assembly	476	28	504	5.5

Women in Political Parties

119. The low representation of women in Parliament and the State Assemblies is an indication of the fact that few women are elected to the apex bodies of the various political parties. However, as each political party is now wooing more women as members, it is anticipated that this will change over the coming years. Table 7.3 shows the number of women and men elected to the Lower House in the year 2000 and their political affiliations, while Table 7.4 indicates the four major component parties of the ruling National Front coalition and the number of female members elected or appointed to offices such as political secretary after the 1995 general election.

Table 7.3: Members of Parliament According to Sex and Political Parties in 2000

	Members of Lower House	Male	Female
***Barisan Nasional* (National Front)**			
UMNO	72	63	9
MCA	30	26	4
MIC	6	5	1
GRM	5	5	0
SNAP	4	4	0
PBDS	7	7	0
SUPP	7	7	0
PBB	10	8	2
LDP	1	1	0
SAPP	2	2	0
UPKO	3	3	0
SENATOR	5	4	1
Total	**152**	**135**	**17**
Opposition			
DAP	10	7	3

PAS	27	27	0
PBS	3	3	0
Keadilan	5	4	1
Total	**45**	**41**	**4**
Grand Total	**197**	**176**	**21**

Source: Malaysian Parliament

Table 7.4: Major Political Parties in the National Front Coalition & Some Portfolios by Women 1996/1997

Political Party	**UMNO**	**MCA**	**MIC**	**Gerakan**
Total Members	1,200,000	220,000	130,000	50,000
State Ex-Co Members	22	1	-	2
Political Secretaries	1	-	-	-
Senators	8	1	1	-

120. Incomplete gender segregated data has to a large extent hampered attempts to come up with detailed analyses of Malaysian women's participation in the political arena. Political parties need to update data on their women members to enable a clearer picture of women's situation *vis a vis* politics and public life to emerge. At the moment it appears that the main impediments in increasing female participation and representation in the political arena are women's family responsibilities, career demands and social inhibitions. On the positive side, political parties have increased their commitment to raising their female membership and encouraging women to play a more active role. In fact some political parties have initiated affirmative-action strategies for women. The MCA (a member of the ruling National Front coalition), for example, allocated 30 per cent of the municipal councillors' posts for women, with the year 2000 as its target date for achieving this quota. Other parties are likely to follow suit.

Public Life

Participation in the Public Sector

121. Table 7.5 indicate that women's overall participation in the public sector has increased at moderate rate from 33.0 percent in 1990 to 44.7 percent in 2001.

Table 7.5: Number of Personnel in the Public Sector according to Sex and Year

Year	**Male**	**% Male**	**Female**	**% Female**	**Total**
1990	468,637	67	229,785	33.0	698,422
1991	470,603	66.4	238,415	33.6	709,018
1992	449,079	65.1	240,935	34.9	690,014
1993	441,535	64.6	241,949	35.4	683,484
1994	419,120	61.9	258,274	38.1	677,394

1995	410,199	61.1	260,759	38.9	670,958
1996	405,631	60.6	263,905	39.4	669,536
1997	399,534	59.95	266,905	40.1	666,439
1998	395,153	59.4	269,435	40.6	664,588
1999	390,344	58.9	272,039	41.1	662,383
2000	393,251	58.2	282,654	41.8	675,905
2001	397,783	55.3	322,074	44.7	719,857

Source: Public Service Department

122. However, women are under-represented in many technical and professional fields, especially those traditionally associated with men such as engineering and architecture as shown in Table 7.6. Women are also significantly under-represented in the higher levels of management and decision making as can be seen in Table 7.7, which shows the distribution of personnel in the public sector from 1998 to 2000 according to sex and service group.

Table 7.6: Civil Servants according to Sex and Scheme of Service 1998-2000

SCHEME OF SERVICE	1998		1999		2000	
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE
Architect	166	107	173	74	160	79
Engineer	2493	287	2504	295	2594	340
Quantity Surveyor	110	166	108	117	118	131
Surveyor	227	12	227	12	239	11
Statistician	78	63	83	65	90	89
Assistant Statistician	76	103	76	102	85	117
Supporting staff	574	593	569	591	598	681
Librarian	70	235	70	230	73	231
Assistant Librarian	41	93	41	92	40	100
Supporting Staff	332	493	333	499	348	526
Information Technology Officer	463	422	459	440	489	525
Ass. IT Officer	366	538	375	555	429	650
Computer Operator	166	375	165	369	146	334
Accountant	194	206	308	225	316	252
Assistant Accountant	610	850	609	857	619	910
Supporting Staff	557	1181	553	1175	560	1207
Legal Officer	440	325	441	322	448	356
Assistant Legal Officer	100	96	101	99	-	-
Supporting Staff	0	0	0	0	109	108

Doctor	3772	2910	3773	3040	4116	3476
Dentist	194	533	196	539	191	545
Nurse (Staff I)	221	18390	270	19145	354	22826
Nurse (Staff II)	237	8576	237	8275	275	11302
Fire-fighter (Administrative)	176	5	193	6	89	4
Fire-fighter (Group I)	417	23	421	24	130	3
Fire-fighter (Group II)	6499	**262**	6549	**60**	7447	**94**
TOTAL	**18,679**	**36,794**	**18,834**	**37,208**	**20,063**	**44,897**

Table 7.7a: Personnel in the Public Sector According to Sex and Agency (excluding the Police and Armed Forces) 1998

Agency	**Premier Post**						**Premier**						**Admin and Professional**		**Supporting Staff**			
	1		2		3		A		B		C				I		II	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
PUBLIC SERVICE (FEDERAL)	2	0	1	0	8	1	24	1	60	4	92	16	31,022	30,566	75,217	101,918	122,195	81,657
PUBLIC SERVICE (STATE)	0	0		0		0	1	0	9	0	12	0	2,793	503	34,50	1,659	55,443	12,684
STATUTORY BODY (FEDERAL)	1	0	1	0	3	0	10	0	15	2	259	53	9,170	5,548	49.95	3,489	38,289	20,153
STATUTORY BODY (STATE)	0	0		0		0	2	0	0	0	8	0	1,292	340	980	480	11,795	3,687
LOCAL AUTHORITY	0	0		0		0	1	0	0	0	2	0	598	133	1,431	458	35,972	6,078
TOTAL	**3**	**0**	**2**	**0**	**11**	**1**	**38**	**1**	**84**	**6**	**373**	**69**	**44,875**	**37,090**	**86,073**	**108,004**	**263,694**	**124,264**

Table 7.7b: Personnel in the Public Sector According to Sex and Agency (excluding the Police and Armed Forces) 1999

Agency	Premier Post						Premier						Admin and Professional		Supporting Staff			
	1		2		3		A		B		C				I		II	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
PUBLIC SERVICE (FEDERAL)	2	0	1	0	8	1	18	0	54	4	99	17	31,111	30,965	74,917	102,549	121,509	81,340
PUBLIC SERVICE (STATE)	0	0		0		0	2	0	8	0	10	0	2,799	517	3,403	1,651	55,166	12,715
STATUTORY BODY (FEDERAL)	1	0	1	0	3	0	8	0	15	2	252	52	9,163	5,599	4,970	3,540	38,075	20,082
STATUTORY BODY (STATE)	0	0		0		0	2	0	0	0	7	0	1,287	341	969	480	11,732	3,682
LOCAL AUTHORITY	0	0		0		0	1	0	0	0	2	0	596	135	1,433	470	35,832	6,092
TOTAL	**2**	**0**	**2**	**0**	**11**	**1**	**31**	**0**	**77**	**6**	**370**	**69**	**44,956**	**37,557**	**85,692**	**108,690**	**262,314**	**123,911**

Table 7.7c: Personnel in the Public Sector According to Sex and Agency (excluding the Police and Armed Forces) 2000

Agency	Premier Post						Premier						Admin and Professional		Supporting Staff			
	1		2		3		A		B		C				I		II	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
PUBLIC SERVICE (FEDERAL)	1		1		4		18	1	55	7	220	103	60,712	46,510	99,616	116,214	127,887	103,495
PUBLIC SERVICE (STATE)			1				4		5		34	16	3,731	1,151	3,405	1,638	65,876	20,552
STATUTORY BODY (FEDERAL)					1		8		3		380	147	11,366	7,201	5,022	3,770	38,256	22,632
STATUTORY BODY (STATE)							2				14	6	1,614	711	837	419	12,262	4,154
LOCAL AUTHORITY							1				5	2	627	172	1,417	474	36,367	6,082
TOTAL	**1**		**2**		**5**		**33**	**1**	**73**	**7**	**653**	**274**	**78,050**	**55,745**	**110,297**	**122,515**	**280,648**	**156,915**

Table 7.7 also shows that the number of women employed at the various State levels, particularly the local authority level, is very low. Women are severely under-represented at the higher levels of local councils.

The under-representation of women at top management levels and in key positions is also a marked feature of Tables 7.8 and 7.9. There are no official quotas or targets for employment based on gender. Efforts are being taken by the MOWFD to increase the number of women at decision-making level to at least 30 percent.

Table 7.8: Personnel According to Sex and Service Group in the Public Sector 1998 –2000

Service Group	1998			1999			2000		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Chief Secretary	1	0	0	1	0	1	1	0	1
Premier Post 1	3	0	3	3	0	3	1	0	1
Premier Post 2	2	0	2	2	0	2	2	0	2
Premier Post 3	11	1	12	11	1	12	5	0	5
Premier A	38	1	39	31	0	31	33	1	34
Premier B	84	6	90	77	6	83	73	7	80
Premier C	373	69	442	370	69	439	653	274	927
Administrative and Professional	44,875	37,090	81,965	44,956	37,557	82,513	73,050	60,745	133,795

Table 7.9: Administrative and Diplomatic Officers According to Sex And Grade (1998-2000)

Grade	1998		1999		2000	
	Male	Female	Male	Female	Male	Female
Chief Secretary	1	0	1	0	1	0
Premier Post I	1	0	1	0	1	0
Premier Post II	1	0	1	0	2	0
Premier Post III	6	0	10	0	5	0
Grade A	17	1	13	1	14	1
Grade B	36	0	38	0	21	7
Grade C	46	5	52	5	78	24
Grade 1	168	27	144	20	192	53
Grade 2	809	170	777	150		
Grade 3	2057	567	2091	592	1602	617

Reasons for the Under-representation of Women at Key/Decision Making Levels in the Public Sector

123. Although a number of studies have been carried out on issues relating to women in the public sector in Malaysia, no detailed study has been conducted on the specific obstacles that have contributed to the paucity of women in this area. This lacuna is perhaps due to the fact that the issue of women in the public sector in Malaysia is relatively new. Therefore, in an attempt to look for possible reasons or explanations for the under-representation of women in the public

sector, this report uses a study that examined factors that act as barriers to women pursuing a career in the Administrative and Diplomatic Service (ADS) over a ten-year period (1984 – 1994). In this study, each stage of the process (recruitment, application, posting etc.) was examined. A summary of the main findings is given below.

a) Application

In the 1990s, there was no shortage of potential women applicants, as evidenced by the number of applications from women over the years studied (1984-1994).

b) Recruitment

The study show that, in numerical terms, by far the greatest source of imbalance between women and men in the public sector is the far greater number of men initially recruited into the service.

c) In-Service Training

The study revealed that women trainees were not discriminated against or treated differently in any of the modules of the ADS pre-service training programme.

d) Postings

Women of the lower grades in the ADS had initially been assigned to work in all ministries and departments in almost the same numbers as their male counterparts. However, as these women moved up the career ladder, they were found to be concentrated in the so-called 'feminine' organisations.

e) Training

The analysis of the overall number and relative proportions of men and women who attended the ADS training courses from 1984-992 shows that for all types of training courses examined, the number and proportion of women was much smaller than that of men. Analysis of four types of training courses attended by men and women over a period of nine years revealed that women comprised only 20 per cent of the total number of course participants.

f) Promotion Opportunities

The study revealed that generally, there was little likelihood of women in the ADS being excluded from promotion when compared with their male counterparts, particularly at the middle management level.

The study also reveals that the smaller number of women passing through the promotion filter is a result of there being fewer women in the immediately preceding grade, as fewer women than men were recruited into the service each year.

Women in Trade Unions

124. In 1995, there were 504 trade unions with a total membership of about 706,300, of which 255,946 members (i.e. 36.2 per cent) were women. The number of employees who were trade union members increased to 739,636 by the end of 1998 with a male membership of 468, 143 (63.3per cent) and female membership of 271,493 (36.7 per cent). Hence, there was a slight

increase in the number of women members in trade unions during this period. However, these figures do not include membership of federations of unions or employers' associations or organisations.

125. Although women constitute about one-third of trade union membership, their representation at leadership level is low. At the time of preparing this report, complete details of numbers of women in trade union leadership was unavailable but it is estimated that less than 1 per cent of women are at the leadership or top union management levels. This general absence of women at the top of the trade union movement has impacted on issues related to women such as the working environment. However, it must be emphasized that women get equal pay for the same type of job.

Measures Taken and Future Prospects

Eradicating Stereotypical/Negative Assumptions about Women in the Workplace.

126. For a change in women's position in management to take place, a culture that values the concept of equality in employment has to become an integral part of organisational practice. Aspects of organisational values and culture that are detrimental to women, including the stereotypical assumptions and discriminatory behavioural styles of its personnel, particularly top managers and decision makers, must be eradicated.

127. In this regard, it has been realized that pursuing an official 'gender blind' policy is not the best way. Rather, it is necessary to put in place specific policies, aimed at firstly, ensuring that individual women are not penalised due to stereotypical assumptions about women as a group and, secondly, responding to the new generation of women who are more robust, versatile and ambitious – characteristics that have been shown to be appropriate and effective for managerial positions.

128. To achieve this objective, present gender awareness and sensitisation training will be further enhanced to address the need to eradicate negative attitudes towards women, reorient thinking and change the mind-set of policy makers, implementers and public service personnel. The Ministry of Women and Family Development had discussion with the National Institute of Public Administration (INTAN) to include gender awareness in all training courses for public personnel, especially in-service and pre-promotion training.

Enhancing Training and Skills Development

129. Management training and other skills development have been opened up to women managers. The training division of all departments has developed a more structured approach in assessing individual training needs to ensure that their managers get regular and appropriate training.

130. Women are also encouraged and given opportunities both to undertake training and to strengthen their experience in areas which they had little access to previously. Realizing a concern of many women managers is that they have not received enough training to enhance their skills as managers, due to families responsibilities or lack of opportunities, attention is now being given to the issue of gender in the development of training programs so that women with family responsibilities will be able to attend as many training courses as possible.

Family-friendly Policies

131. The government has initiated 'family-friendly' policies and practices, including the provision of childcare facilities, allowing paternity and maternity leave and flexi-time work to help employees, particularly mothers, face the dual demands of work and family life. Flexi-time allows employees to set their own starting and quitting times within limits set by the management. Combined with efficient facilities for day care and time off for breast feeding, flexible working hours will lead to higher productivity among women employees, and at the same time provide assurance of quality care for their children: the ultimate goal to be achieved by the Malaysian 'Caring Society' concept. The Government is currently reviewing the Employment Act 1955 with a view to amending rules relating to part-time employment so as to enable more women to take on part-time work.

Shaping Career Choices

132. Attempts to improve the position of women in management raise a wide variety of issues, which are sometimes beyond the scope of the organisation. Socio-cultural beliefs, which form an integral part of the socialization process, and the gendered education and training most men and women are exposed to from early childhood, for example, are not easily modified.

133. Concerted efforts are now being made to promote gender-equitable education and increase women's skills, particularly in the present 'male dominated' professions and professions which are more marketable. Girls are now encouraged to develop interests, ambitions and appropriate skills through the careful design of school and training curricula. Efforts are also being made to ensure that they receive appropriate and encouraging career advice.

Increasing Women's Empowerment

134. Strategies are being developed to provide women with access to the power structure. Training in specific traits such as independence, control, responsibility, self-esteem, self-confidence and self-awareness that suit managerial careers and may increase women's sense of empowerment may be offered to counteract the effects of the models of female passivity and dependency that is frequently held up to them and to enable them to deal with situations in which their authority is being questioned or resented.

Conclusion

135. The realization of all of the above measures requires careful planning, effective and efficient implementation and evaluation and, most importantly, the full commitment of relevant agencies and responsible personnel. Bureaucratic policies must be supported by a strong political commitment to women's advancement. Experience shows that, in the case of Malaysia, political support and commitment from the very top has been of critical significance in policy changes. Considering the current wave of development orientation in the Malaysian public service, and the efforts to introduce a wide range of administrative improvements, the most notable of which is the adoption of a new mind-set and a new paradigm for thinking and acting, there is no doubt that, with the full support of the top leadership and commitment of all responsible officers, strategies for improving the position of women can be successful.

ARTICLE 8

INTERNATIONAL REPRESENTATION AND PARTICIPATION

Introduction

136. Recruitment of personnel for participation in bilateral, regional and multilateral affairs is primarily based on the qualifications, interest and commitment of the applicants. After undergoing the mandatory pre-service course, men and women with suitable credentials are assigned to the Foreign Service.

137. As Foreign Service officers, women perform the same duties and responsibilities as their male counterparts. They have the right and opportunity to represent the Government at various international fora in accordance with their areas of responsibility and expertise. Female Foreign Service officers are given equal opportunities for training at various local and foreign institutions to enhance their professional and management skills.

Women in the Malaysian Foreign Service

138. The number of women officers in the Malaysian Foreign Service has increased significantly over the years. In 2002, 20.7 per cent of officers are female (69 out of 333) as compared to 18.8 per cent (64 out of 340) in 2001 and 15.4 per cent (42 out of 273) in 1999. Five per cent out of 69 female officers in 2002 are in top postings i.e. Ambassador/ High Commissioner/Head of Mission. Table 8.1 shows the number of women officers in the Malaysian Foreign Service and their positions in 1992, 1994 and 1999; while Table 8.2 shows the distribution of men and women in middle and higher management in 2002.

Table 8.1: Malaysian Foreign Service Staff According to Sex in 1992, 1994 and 1999

	1992				1994				1999			
	Men	**Women**	**Total**	**% of Women**	**Men**	**Women**	**Total**	**% of Women**	**Men**	**Women**	**Total**	**% of Women**
Top Management	26	-	26	0	28	1	29	3.4	19	4	23	17.4
Middle Management (M1)	23	2	25	8.0	40	5	45	11.1	32	2	34	5.9
Lower Management (M2)	82	4	86	4.6	76	6	82	7.3	73	16	89	16.3
Desk Officers (M3)	110	16	126	12.6	71	12	83	14.4	107	20	127	15.7
Grand Total	**241**	**22**	**263**	**8.3**	**215**	**24**	**239**	**10.0**	**231**	**42**	**273**	**15.4**

Source: Human Resources Department, Ministry of Foreign Affairs

Table 8.2: Malaysian Foreign Service Staff in Middle and Higher Management According to Sex in 2002

Grade	Women	Men
Middle Management	63	235
Higher Management	6	29

Source: Human Resources Department, Ministry of Foreign Affairs

139. Women are sometimes not assigned to particular posts due to cultural and professional constraints or barriers regarding women in the host countries. The non-assignment of women diplomatic officers to these countries is not due to any policy of discrimination practiced by the Ministry, but to respect for the sensitivities of the host countries.

Rules Applicable to Women in the Foreign Service

140. All Government rules and regulations pertaining to the public service apply equally to male and female diplomatic officers in the Malaysian Foreign Service.

Participation in International Meetings

141. Women in the Malaysian Foreign Service attend all the international meetings under their purview. Malaysian women lead delegations or are members of delegations in their capacity as advisors and experts in their various fields of competence and responsibility. The women in Malaysia's delegations to international meetings are drawn primarily from the government sector. However, if necessary, they can also be drawn from non-governmental organizations.

Participation in International Organizations

142. Malaysian women in international organisations such as the United Nations generally fall into three categories or levels: professional level, management level and support staff. Table 8.3 shows the number of Malaysian women attached to international organisations and their positions in 2002.

Table 8.3: Malaysian Women Attached to International Organisations in 2002

Organization	Management Level	Professional Level	Supporting Staff
International Atomic Energy Agency (IAEA)	-	1	5
World Trade Organization (WTO)	-	-	1
World Intellectual Property Organization	-	2	-
International Federation of Red Cross & Red Crescent Societies	-	-	1
United Nations	2		1
International Telecommunications Union	-	2	-

World Health Organization (WHO)	2	-	2
Center of Human Dialogue	-	1	-
International Labour Organization (ILO)	-	2	1
World Economic Forum (WEF)	-	1	-
United Nations High Commission for Refugees (UNHCR)	1	1	1
United Nations High Commission for Human Rights	1	-	-
United Nations Conference on Trade and Development	-	-	1
United Nations Compensation Commission	-	1	-
World Bank	2	14	-
International Monetary Fund (IMF)	-	4	-

143. As apparent from Table 8.3, the number of Malaysian women working in such international organisations is unfortunately still low. This is mainly due to cultural constraints and to respect of the sensitivities of host countries e.g. Arab countries. However, Malaysia is committed to enhancing women's participation internationally and regionally.

ARTICLE 9

NATIONALITY

Introduction

144. The Malaysian Constitution accords equal rights to men and women to acquire or retain their Malaysian nationality. However, Malaysia has reservation with regards to paragraph 2, Article 9 in CEDAW on granting women equal rights with men with respect to the nationality of the children. The right to nationality as a special privilege has been spelt out clearly in the Federal Constitution.

Provisions on Nationality and Residence

145. Citizenship in Malaysia is determined by a combination of factors like birth and parentage but not by gender. Unless she wishes it to be so, a woman's nationality is not affected by marriage to a non-citizen or a change of nationality by her husband.

146. Article 14 of the Federal Constitution lists the categories of persons who qualify for citizenship. Although not explicitly stated in the Federal Constitution, non-Malaysian women are free to acquire Malaysian citizenship and Malaysian women to change or retain their nationality irrespective of marital status.

147. A child is granted Malaysian citizenship if:

a) s/he is born within the Federation and has at least one parent who at the time of birth is either a citizen or a permanent resident in the Federation.

b) s/he is born outside the Federation but her/his father is at the time of birth a citizen and the birth is registered at a consulate of the Federation.

148. Any person above the age of 18 may apply for a passport. The Guardianship of Infants Act 1961 (Act 351) was amended in 1999 to give equal parental rights to mothers. This allows mothers to sign all documents related to their children and thus enables mothers to apply for passports on behalf of their children.

Nationality and Identity Issues

149. Although the Federal Constitution does not prevent a Malaysian woman from marrying a foreign national or deny her right to change her nationality, it prohibits dual nationality. Marriages solemnized abroad are required by law to be registered in Malaysia for immigration and citizenship considerations. The Federal Constitution provides that foreign wives of Malaysian men may be conferred citizenship upon making an application to the Government if the marriage is subsisting and the woman has acquired permanent residence status. However, there is no provision in the law that allows a foreign husband citizenship status as a result of his marriage to a Malaysian woman.

ARTICLE 10

EDUCATION

Introduction

150. The Malaysian National Education System oversees primary, secondary and tertiary education with the aim of creating a united, disciplined and skilled society. 20.4 per cent of the annual National Budget is allocated for education. Strategies employed include:

i) providing free primary and secondary education;

ii) providing special measures for disadvantaged groups;

iii) democratising educational opportunities;

iv) enhancing technical education; and

v) diversifying educational opportunities, especially in the scientific and technical fields.

151. These strategies apply equally to males and females. Under the National Education System, male and female students in the schools are taught using the same common curriculum and sit for the same national examinations conducted by a central body, the Examinations Syndicate of the Ministry of Education.

152. Children in Malaysia can either attend a Government (public) school or one of the private schools in the country. As of 1998, there were 8,696 Government schools providing free education to 4.8 million students between the ages of 6+ and 16+ nationwide; and 219 private schools in the country with a total enrolment of 86,747 students. The description of basic education below refers to Government schools.

Basic Education

153. The Ministry of Education provides 11 years of free basic education for Malaysians (six years of primary, three years of lower secondary and two years of upper secondary schooling.) As of 1998, approximately 88 per cent of Malaysians between the ages of 6+ to 16+ years were enrolled in Government schools.

154. In that year, there were 7,128 primary schools with an enrolment of 2,871,710 pupils and 1,586 secondary schools with an enrolment of 1,882,264 students. Most of the primary schools (82.9 per cent) were in the rural areas serving 1,839,707 (64.1 per cent) pupils. As for secondary schools, 918 of the 1,568 schools (58.5 per cent) were in the rural areas serving 997,062 (56.1 per cent) students. Thus, basic education is accessible to all Malaysian children regardless of locality, as indicated by Table 10.1

Table 10.1:Distribution of Government Schools and Students According to Locality and Gender in 1998[5]

	Rural	Urban	Sub-Total	Grand Total
Primary				
No. of Schools	5,908	1,220		7,128
No. of Pupils				
- Male	946,021	529,292	1,475,313	
- Female	893,686	502,711	1,396,397	2,871,710
Secondary				
No. of Schools	918	650		1,568
No. of Pupils				
- Male	492,605	429,410	922,015	
- Female	504,457	455,792	960,249	1,882,264
Total				
No. of Schools				8,696
No. of Students				4,753,974
Total Population (6+ to 16+ Age Groups)				5,583,608
∴Participation Rate Against Age Group Population (%)				88.30

155. Out of the 8,696 schools in the country, only 70 primary and 131 secondary schools are not co-educational. All schools, whether co-educational or not, offer a similar standard of premises, equipment, curriculum, teaching staff and opportunities to students.

156. Table 10.2 shows the number of students enrolled at government schools and in relation to sex and total age group population.

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[5] The source of the table is the Educational Planning and Policy Research Division, Ministry of Education, Malaysia. Unless otherwise stated, all tables in this chapter are from this source.

Table 10.2: Participation Rates In Government Schools According to Sex and Total Age Group Population in 1998

	Male	Female	Total
6+ to 16+ Age Group			
Population*	1,550,145	1,460,533	3,010,678
No. Enrolled in Government Primary Schools	1,475,313	1,396,397	2,871,710
Participation Rate Against Age Group Population (%)	95.2	95.6	95.4
12+ to 16+ Age Group			
Population*	1,219,640	1,153,287	2,372,827
In Government Secondary Schools	922015	960249	1,882,264**
Participation Rate Against Age Group Population (%)	75.6	83.3	79.3

* *Source:Department of Statistics, Malaysia*

** Includes 92327 (46666 males and 45661 females) students who are 17+ and who went through Remove Class in 1993.

157. It is clear, from comparing the number of students enrolled at government schools with the total age group population, that the participation rate of Malaysian children in Government schools is high, with 95.4 per cent of children between the ages of 6+ to 11+ enrolled in Government primary schools and 79.3 per cent of those between the ages 12+ to 16+ in Government secondary schools. The data in Table 10.2 also shows that female participation in government schools is higher than male: 95.6 per cent of females are in primary schools as opposed to 95.2 per cent of males and 83.26per cent of females are in secondary schools as opposed to only 75.6 per cent of males.

158. As for disabled students, a legal foundation for the provision of services for children with special needs was established under the Education Act 1961. Currently there are 28 special education primary schools and three special education secondary schools nationwide with a total enrolment of 2,950 students (1,597 males and 1,353 females). All the 31 schools are co-educational and are monitored by the Special Education Department of the Ministry of Education.

School Dropout[2] Rates

159. Even though promotion from one Form or level to the next in Government schools is automatic, there are still students who do not complete the 11 years of basic education.

160. Analysis of data from the Government schools census for 1995 and 1996 reveals the dropout rates for each Form in secondary school to be as shown in Table 10.3 below.

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[2] The term 'dropout' refers to a student who leaves a Government school before completing the 11 years of basic education. It includes those who leave to continue their education in private schools.

Table 10.3: Dropouts from Government Primary and Secondary Schools 1995-1996

Level/Year/Form	Male		Female		Total	
	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)
Primary Schools (6 yrs)						
Total in Years 1-5 (1995)	1217356		1155272		2372628	
Total in Years 2-6 (1996)	1208644		1148635		2357279	
Dropouts	8712	0.72	6637	0.57	15349	0.65
Dropouts (1995–1996)						
Year 1-2	1599	0.63	1320	0.55	2919	0.59
Year 2-3	381	0.16	402	0.18	783	0.17
Year 3-4	1343	0.55	974	0.42	2317	0.48
Year 4-5	2113	0.87	1238	0.53	3351	0.70
Year 5-6	3276	1.41	2703	1.23	5979	1.32
Total	**8712**	**0.72**	**6637**	**0.57**	**15349**	**0.65**
Secondary Schools (5 yrs)						
Total in Forms 1-4 (1995)	635604		644703		1280307	
Total in Forms 2-5 (1996)	589777		626833		1216610	
Dropouts	45827	7.21	17870	2.77	63697	4.98
Dropouts (1995-1996)						
Form 1-2	6959	3.72	2162	1.20	9121	2.48
Form 2-3	8984	5.21	3705	2.17	12689	3.70
Form 3-4	25746	16.53	11862	7.48	37608	11.96
Form 4-5	4138	3.44	141	0.1	4279	1.68
Total	**45827**	**7.21**	**17870**	**2.77**	**63697**	**4.98**

Level/Year/Form	**Male**		**Female**		**Total**	
	Number	**Rate (%)**	**Number**	**Rate (%)**	**Number**	**Rate (%)**
Transition From Primary to Secondary						
Total in Year 6 in 1995	**215928**		**205498**		**421426**	
Proceeded to Secondary School in 1996	188268		182126		370394	
Dropouts*	27660	12.81	23372	11.37	51032	12.11

* Includes students who left Government schools for private schools.

161. With reference to primary education, out of 2,372,628 pupils in Years 1-5 in 1995, 15,349 pupils did not continue their education in Years 2-6 in 1996; contributing to an overall dropout rate of 0.65per cent.

162. The dropout rate for female pupils is lower than that of males. From the total of 15,349 dropouts cited above, 8712 dropouts in Years 1-5 were male (out of total of 1,217,356 male pupils), adding up to a male dropout rate of 0.7 per cent. In contrast, 6,637 out of a total of 1,155,272 female pupils in Years 1-5 dropped out, adding up to a female dropout rate of 0.6 per cent. Further analysis reveals that the female dropout rate is lower than the male dropout rate for every Year in primary school, except for Years 2-3 where the female dropout rate exceeded the male by 0.02 per cent.

163. Out of a total of 1,280,307 students in Forms 1-4 in 1995, 63697 students did not continue schooling in Forms 2-5 in 1996, leading to an overall dropout rate of 5 per cent. Again, the female dropout rate is lower at 2.8 per cent compared to the male dropout rate of 7.2 per cent. The male dropout rate is higher than the female in every Form in secondary school.

164. In 1995, 12.1 per cent of students in Year 6 of primary school did not continue their education in secondary school in 1996. However, this figure includes students who continued their education in private schools, where data is not available. The data also reveals that 12 per cent of students in Form 3 (lower secondary level) in 1995 did not continue their education in Form 4 (upper secondary level) in 1996. For both levels of schooling, the male dropout rates are higher. At the primary to secondary school level, the dropout rate is 12.8 per cent for males and 11.37per cent for females. At the lower secondary school to upper secondary school level, the dropout rate is 16.5 per cent for males and 7.4 per cent for females. It is clear therefore that females stay in school longer than males at all levels.

165. The figures on dropout rates in Table 10.3 are based on the figures on enrolment and dropouts in government schools shown in Table 10.4 below.

Table 10.4:Enrolment and Dropouts in Government Schools 1995-1996

Level/ Year/ Form	*Male*			*Female*			*Total*		
	1995	**1996**	***Dropouts***	**1995**	**1996**	***Dropouts***	**1995**	**1996**	*Dropouts*
Primary									
Year 1	254658	233670		240846	221287		495504	454957	
Year 2	241873	253059	1599	229173	239526	1320	471046	492585	2919
Year 3	245366	241492	381	232605	228771	402	477971	470263	783
Year 4	243373	244023	1343	232964	231631	974	476337	475654	2317
Year 5	232086	241260	2113	219684	231726	1238	451770	472986	3351
Year 6	215928	228810	3276	205498	216981	2703	421426	445791	5979
Total	**1433284**	**1442314**	**8712**	**1360770**	**1369922**	**6637**	**2794054**	**2812236**	**15349**
Secondary									
Remove Class	48062	31442		46515	23159		94577	54601	
Form 1	187127	204888		180570	205482		367697	410370	
Form 2	172351	180168	6959	170626	178408	2162	342977	358576	9121
Form 3	155745	163367	8984	158671	166921	3705	314416	330288	12689
Form 4	120381	129999	25746	134836	146809	11862	255217	276808	37608
Form 5	100973	116243	4138	113706	134695	141	214679	250938	4279
Total	**736577**	**794665**	**45827**	**758409**	**832315**	**17870**	**1494986**	**1626980**	**63697**

Source: Government Schools Census for 1995 and 1996

Literacy Rate

166. According to the 1991 Literacy Census, 90 per cent of men were literate as compared to only 80 per cent of women. In the 15- 24 years age group, the literacy rate was 95.9 per cent for males and 95.2 per cent for females; in the 25-44 years age group, it was 92.6 per cent for males and 86.1per cent for females and for those 45 years and above, it was 72.1 per cent for males and 40.1 per cent for females. This is an indicator that most Malaysians, especially those in the younger age groups, have made use of the educational opportunities available to them. See Table 10.5.

Table10.5: Literacy Rate by Age Group and Gender in 1991(per cent)

Age Group	Male	Female	Total
10-14	98	98	98
15-19	97	96	97
20-24	94	93	94
25-29	93	91	92
30-34	93	88	90
35-39	92	84	88
40-44	90	76	83
45-49	85	63	75

50-54	80	50	65
55-59	72	37	54
60-64	64	27	45
65-69	60	23	41
70-74	50	15	32
75+	40	9	23
Total	90	80	85

Source: 1991 Literacy Census

Gender Stratification

Government Schools

167. The New Primary School Curriculum (NPSC) places emphasis on the basic skills of reading, writing and arithmetic, while the Integrated Secondary School Curriculum (ISSC) is structured so as to ensure the continuity of the NPSC in secondary schools. Neither the NPSC nor the ISSC make any distinctions on the ground of gender.

168. Enrolment figures for 1990, 1994 and 1998 showed that there was no apparent disadvantage faced by girls at all levels of the 11 years of basic schooling, as indicated by Table 10.6. In fact, the figures reinforced the finding that female students stayed in schools longer than male students.

Table10.6: Enrolment by Gender in Primary and Secondary Schools – 1990, 1994 and 1998

Level	**1990**		**1994**		**1998**	
	Male	**Female**	**Male**	**Female**	**Male**	**Female**
Primary	1,256,795	1,190,411	1,416,991	1,345,175	1,475,313	1,396,397
%	51.4	48.6	51.3	48.7	51.4	48.6
Lower Secondary	473,999	468,802	538,573	534,998	619,605	610,346
%	50.3	49.7	50.2	49.8	50.4	49.6
Upper Secondary	176,480	184,931	207,737	227,448	302,410	349,903
%	48.8	51.2	47.7	52.3	46.4	53.6

169. Table 10.6 shows that the rate of female participation in school consistently increased from primary to lower secondary and then to upper secondary school. Taking 1998 as an example, male enrolment represented 51.4 per cent of the total enrolment rate in primary school. This figure decreased to 50.4 per cent in lower secondary school and further decreased to 46.4 per cent in upper secondary school. On the other hand, female enrolment increased from 48.6 per cent in primary school to 49.6 per cent at the lower secondary level and to 53.6 per cent in upper secondary school. There was a similar pattern for 1994 and 1990.

170. Within the National Curriculum System, students in secondary schools are allowed to choose certain technical/commercial subjects and courses based on their interests and potential.

All students, including girls, are aware of and take advantage of the options available. Based on the number of participants in these subjects/courses as shown in Tables 10.7,10.8,10.9 and 10.10 below, it is apparent that gender stratification exists in terms of choice of courses, with a large number of girls pursuing Home Economics courses as opposed to Engineering subjects. Since there are no regulations to compel students to choose courses according to their gender, this phenomenon is probably due to cultural socialisation to do with gender roles.

Table 10.7: Student Participation in the Living Skills Subject in the Lower Secondary Assessment According to Option and Gender in 1998

Options	Male	Female	Total	% Female
Additional Manipulative Skills	134,945	27,264	162,209	16.8
Home Economics	4,567	148,845	15,340	97.0
Agriculture	48,338	22,084	70,422	31.4

Source: The Examinations Syndicate, Ministry of Education, Malaysia

Living Skills Options in Lower Secondary School

171. Students in lower secondary school must choose one out of three electives, namely Additional Manipulative Skills, Home Economics and Agriculture, for the 'Living Skills' subject. An analysis of student choices revealed that a high proportion of girls opt for Home Economics, which has a female participation rate (FPR) of 97 per cent. In contrast, Additional Manipulative Skills only has a FPR of 16.8 per cent.

Technical/Vocational Subject Options in Upper Secondary School

172. In upper secondary school as well, students can opt for certain subjects based on their interests and personal preferences. Data for 1997 shows that in that year, a high proportion of female students chose Home Economics, which had a FPR of 92.8 per cent. Agricultural Science recorded a FPR of 33.4 per cent and Engineering Technology of 38.6 per cent.

Table 10.8: Student Participation in Technical/Vocational Subjects According to Gender 1997

Subject	Male	Female	Total	% Female
Agricultural Science	14,009	7,020	21,029	33.4
Home Economics	1,639	21,194	22,833	92.8
Engineering Drawing	6,758	5,870	12,628	46.5
Engineering Technology	1,902	1,194	3,096	38.6
Principles of Accounting	43,617	69,500	113,117	61.4
Commerce	109,415	126,266	235,681	53.6
Basic Economics	87,958	109,714	197,672	55.5

Technical Courses in Upper Secondary School

173. With regard to technical courses, female students tend to opt for Commerce and Agriculture. The FPR in Commerce and Agriculture courses for 1998 was 76.9 per cent and 76 per cent respectively. It was much lower for Mechanical Engineering and Electrical Engineering - 12.3 per cent and 22.2 per cent respectively.

Table10. 9: Student Participation in Technical Courses According to Gender 1998

Course	Male	Female	Total	% Female
Electrical Engineering	5297	1509	6806	22.2
Mechanical Engineering	4624	648	5272	12.3
Civil Engineering	3173	2923	6096	47.9
Agriculture	87	276	363	76.0
Commerce	374	1243	1617	76.9
Total	**13,555**	**6599**	**20,154**	**32.7**

Source: Department of Technical Education, Ministry of Education, Malaysia

Vocational Courses in Upper Secondary School

174. Where Home Economics is offered as a vocational course, it is mostly attended by girls. In 1998, it had a female participation rate of 90.8 per cent. Commerce was also popular with girls, and recorded a FPR of 80.2per cent. Least popular was Engineering Trades which only had a 10.7 per cent FPR (i.e. 1,470 girls out of the total of 13,711 participants.)

Table 10.10: Student Participation in Vocational Courses According to Gender 1998

Course	Male	Female	Total	% Female
Engineering Trades	12241	1470	13711	10.7
Commerce	544	2209	2753	80.2
Agriculture	453	398	851	46.8
Home Economics	256	2534	2790	90.8
Total	**13,494**	**6611**	**20,105**	**32.9**

Source: Department of Technical Education, Ministry of Education, Malaysia

Polytechnics

175. Students who complete the 11 years of basic education may apply to further their education in the ten polytechnics run by the Ministry of Education. Seven courses of study are offered, namely Commerce, Civil Engineering, Electrical Engineering, Mechanical Engineering, Marine Engineering, Food Technology and Hospitality and Fashion. All the courses are open to both male and female applicants. The Technical Department of the Ministry of Education reports that selection of applicants is based on merit; and there is no discrimination against females.

176. In 1998, 30 per cent out of a total of 21,879 students in Polytechnics were female. Further breakdown of enrolment according to gender shows that females outnumbered males in Commerce, Food Technology and Hospitality, and Fashion courses. The courses with the least number of female participants are Mechanical Engineering (FPR 5 per cent), followed by Electrical Engineering (FPR 22.8 per cent) and Civil Engineering (FPR 29.9 per cent).

Table 10.11: Student Enrolment in the Polytechnics According to Gender – 1998

Course	Male	Female	Total	% Female
Commerce	1562	3159	4721	66.9
Civil Engineering	3439	1468	4907	29.9
Electrical Engineering	4553	1338	5891	22.7
Mechanical Engineering	5329	283	5612	5.0
Marine Engineering	291	0	291	0
Food Technology	115	219	334	65.6
Hospitality & Fashion	34	89	123	72.3
Total	**15,323**	**6556**	**21,879**	**30.0**

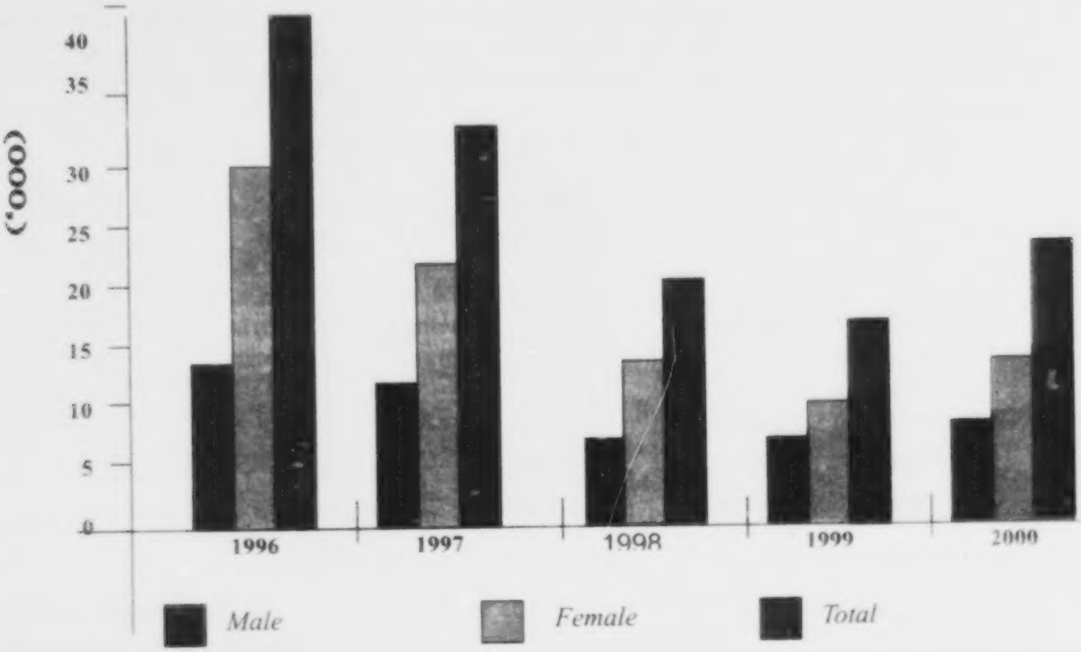
Source: Department of Technical Education, Ministry of Education, Malaysia

Teacher Training Colleges

177. Men and women are given equal access to the 31 teacher training colleges run by the Ministry of Education. Of these colleges, only one is non-coeducational. All the colleges have the same curriculum and examinations and share a similar quality of teaching staff, premises and equipment. Data reveals that more women than men are interested in pursuing a teaching career, with up to 70 per cent of applicants to the teacher training colleges being female. This is not surprising as teaching has always been a predominantly female field in Malaysia.

178. Chart 10.1 shows the enrolment figures according to gender at government teacher training colleges from 1996 to 2000. Female enrolment was higher than male in every year indicated in the chart, although the gap between male and female enrolment figures has narrowed since 1996.

Chart 10.1: Enrolment in Teacher Training Colleges According to Gender 1996-2000



Public Institutions of Higher Learning

179. There are 12 public institutions of higher learning under the Ministry of Education and all are co-educational. These institutions comprise ten universities, one institute and one college. Selection of students is based upon academic results and there is no discrimination against females. The enrolment figures for the 1997/98 academic year showed that female students outnumbered male by 9,065 out of a total student population of 112,299, as indicated by Table 10.12.

Table 10.12: Student Enrolment in the Public Institutes of Higher Learning According to Gender 1997/1998

Fields	Male	Female	Total	% Female
Arts				
Arts & Humanities	9998	16209	26207	61.85
Economics & Business	10828	16115	26943	59.81
Law	1580	1589	3169	50.14
Others	2759	5096	7855	64.88
Sub-total	**25165**	**39009**	**64174**	**60.79**

Science				
Medicine & Dentistry	1805	3185	4990	63.83
Applied Sciences	1221	1903	3124	60.92
Pure Sciences	2569	2762	5331	51.81
Computer Sciences	2756	3933	6689	58.80
Others	3225	4412	7637	57.77
Sub-total	**11576**	**16195**	**27771**	**58.32**
Technical Fields				
Engineering	11,971	3846	15817	24.35
Architecture & town Planning	895	564	1,459	38.66
Survey	358	156	517	30.75
Others	1652	909	2561	35.49
Sub-total	14876	5478	20354	26.91
Total	**51617**	**60682**	**112299**	**54.04**

Source: Higher Education Department, Ministry of Education Malaysia

180. In line with the data on students' choice of fields of study according to gender presented earlier, Table 10.12 shows that female participation in technical fields is significantly lower than male. Table 10.13 shows that in 1997, female students constituted only 42.4 per cent of the total number of graduates in Science, Medicine, Agriculture and Engineering; and that although females outnumbered males slightly in Science, they were significantly outnumbered in Engineering.

Table 10.13: Graduands in Science, Medicine, Agriculture and Engineering in Public Institutes of Higher Learning According to Gender, 1997/1998

Fields	Male	Female	Total	% Female
Science	1699	2051	3750	54.69
Medicine	221	181	402	45.02
Agriculture	51	40	91	43.96
Engineering	1759	478	2237	21.37
Total	**3730**	**2750**	**6480**	**42.44**

Source: Higher Education Department, Ministry of Education Malaysia

Private Institutions of Higher Learning

181. The private sector is a significant provider of education in Malaysia. Men and women have equal opportunities to pursue education and training at private institutions. Apart from the

219 private schools mentioned earlier, the private sector provides various educational facilities and training centres as described below.

Training Centres

182. As of June 1998, there were 1,388 private training centres catering to 157,263 learners. Table 10.14 details the kind of training provided by these centres, as well as the number of their students and teachers. These centres are open to all irrespective of age. Some of the centres are run in the evenings to cater for working adults.

Table 10.14: Private Sector Training Centres 1998

Types of Centres	**No**	**Enrolment**	**Teachers**
Tuition Centres	880	112185	8414
Language Centres	104	11747	3623
Computer Training Centres	188	21616	4722
Commercial/Skills Training Centres	216	11715	1107
Total	**1388**	**157263**	**17866**

Source: Private Education Department, Ministry of Education Malaysia

Colleges and Universities

183. In 1998, there were 583 institutions of higher learning run by the private sector with a total enrolment of 73,544 students. Six of these institutions were of University status and had an enrolment of 5033 students while 68,511 students were enrolled at the other 577 institutions. All the institutions were open to men and women.

Pre-school Education

184. Pre-school education is provided by the Ministry of Education and other Government agencies including the Ministry of Rural Development and the Ministry of National Unity and Social Development as well as by the private sector and NGOs. As indicated by Table 10.15, the 1997 enrolment figures showed that male-female participation was about 50:50; but a study of participation in relation to population age groups showed that the female participation rate was higher than the male rate (30.9 per cent and 29.2 per cent respectively.)

Table 10.15: Enrolment in Pre-schools 1997

Institutions	Male	Female	Total	% Female
Ministry of Education	13060	12549	25609	49.00
Other Government Agencies	146157	146023	292180	49.98
NGOs and Private Sector	71662	70347	142009	49.54
Total	**230879**	**228919**	**459798**	**49.79**

Total Population* -3,4,5 Yr. Olds	789780	740671	1530451	48.40
Participation Rate Against Age Groups (per cent)	**29.23**	**30.91**	**30.04**	

Source: Department of Statistics Malaysia

Support Services

Career and Vocational Guidance

185. Career and vocational guidance are provided in schools and students are free to choose their career regardless of their gender.

186. School resource centres are equipped with books and publications on higher education and career opportunities. The Schools Division of the Ministry of Education has produced six volumes of a series of books on careers to aid school counsellors in advising students on career choices. Issues such as gender discrimination and gender stereotypes in relation to career matters are addressed by this series.

Sports and Physical Education

187. Female students are encouraged and given the same opportunities to participate in sports and physical education as male. There are no regulations or prohibitions to hamper the participation of females in sporting activities. Male and female students have equal access to sporting facilities.

Textbooks and Teaching Materials

188. Recognising the need to eradicate all discriminatory portrayals of women and gender stereotyping in textbooks and teaching materials, the Ministry of Education has set specific guidelines on gender for writers of these materials.

Scholarships/Loans

189. The Ministry of Education provides scholarships and loans for academically able students who wish to pursue higher education. Gender is not taken into account in selecting candidates for scholarship and loans. Table 10.16 shows the number of scholarships/loans that was given for courses on teaching and education in 1998. Females made up 61.2 per cent of the scholarship/loan recipients.

Table10.16: Number of Scholarship and Loan Recipients According To Gender 1998

Scholarship/Loan	Male	Female	Total	% Female
Federal Teaching Scholarship				
Diploma in Education	131	660	791	83.44
First Degree	143	368	511	72.02
Masters & Ph. D.	105	83	188	44.15

Polytechnic Teaching Scholarship				
Diploma	108	99	207	47.83
First Degree	246	131	377	34.75
Masters	85	79	164	48.17
Education Loan				
Certificate-Polytechnic	1378	645	2023	31.88
First degree	916	2845	3761	75.64
Total	**3112**	**4910**	**8022**	**61.21**

Source: Scholarship Division, Ministry of Education

190. Females received the bulk of the Diploma in Education and First Degree Scholarships for the Federal Teaching Scholarship. They also received the bulk of the Education Loans for the First Degree Programme. However, they received fewer scholarships than their male counterparts at postgraduate levels and also with regard to the Certificate-Polytechnic Teaching Scholarships. In order to encourage a greater female participation in polytechnics, where only 30 per cent of the students and only 32per cent of the lecturers are female, increasing the number of female recipients for both the Polytechnic Teaching Scholarships and Certificate-Polytechnic Loans should be considered.

Women in Key Positions

191. As of March 1999, the management and policymaking levels of Education is extremely male dominated, as is indicated by Table 10.17. For example, the top management of the Ministry of Education, which comprises the Minister and his two deputies, the Secretary General of Education and his two deputies and the Director General of Education and his five deputies, is totally male; and out of the 36 Divisional Heads in the Ministry, only five (13.9 per cent) are female. This trend runs through all levels of management, down to Heads of Schools.

Table 10.17: Officials in Key Positions in Education According to Gender in 1997 & 1999

Posts	Male	Female	Total	% Female
Ministry of Education (as of March 1999)				
The Secretary General	1	0	1	0
The Director General	1	0	1	0
Dep. Secretary General	2	0	2	0
Dep. Director General	5	0	5	0
Division Heads	31	5	36	13.89
State Education Depts. (as of Sept. 1997)				
State Education Director	14	0	14	0

Division/District Education Offices (as of Sept. 1997)				
Heads	74	4	78	5.13
Schools (as of 1997)				
Secondary School Heads	945	392	1337	29.32
Primary School Heads	5,341	1,014	6355	15.96

192. Table 10.18 shows the number of heads of public educational institutions apart from schools as of March 1999. Again, there is a marked preponderance of males in these positions.

Table 10.18: Heads of Public Educational Institutions According to Gender 1999

Public Institution	Male	Female	Total	% Female
Institutes of Higher Learning	11	1	12	8.33
Teacher Training Colleges	26	5	31	16.13
Polytechnics	9	1	10	10.00

193. In terms of faculty members of public institutions of higher education, data from 1997 shows that most female faculty members are lecturers and that significantly fewer women than men are professors and associate professors.

Table 10.19: Faculty Members of Public Institutions of Higher Learning According to Gender 1997

Post	Male	Female	Total	% Female
Professor	479	73	522	13.22
Associate Professor	1358	408	1766	23.10
Lecturer	4028	3287	7315	44.94
Total	**5865**	**3768**	**9603**	**39.24**

194. Table 10.20 shows the total number of teachers and lecturers in teachers training colleges, polytechnics and schools. Notwithstanding the fact that only 26 per cent of the primary school heads and 29.3 per cent of the secondary school heads are female as mentioned above, it can be seen that the number of female teachers in schools far exceeds that of male teachers.

Table 10.20: Number of Teachers/Lectures in Teachers Training Colleges/Polytechnics/Schools 1997

Institution	Male	Female	Total	% Female
Teacher Training Colleges	2067	1023	3090	3.11
Polytechnics	866	405	1271	31.86
Secondary Schools	41549	63008	104557	60.26
Primary Schools	58198	98079	156277	62.76

195. It appears therefore that although women do not have problems getting lower or middle level jobs, they do face problems getting into top or key positions even when they are generally better qualified than men as indicated by Table 10.21, which shows the distribution of the 260,834 teachers in the schools according to academic qualifications and gender and reveals that more female teachers than male hold university degrees.

Table 10.21: Distribution of Teachers by Academic Qualifications and Gender - June 1998

Primary					Secondary				Total	
	Male	Fem	Total	% Female	Male	Fem	Total	% Female	No	% Female
Degree Holders	16	13	29	44.83	21481	38473	59954	64.17	59983	64.16
Diploma Holders	544	817	1361	60.03	1492	3235	4727	68.44	6088	66.56
Certificate Holders	57638	97249	154887	62.79	18576	21300	39876	53.42	194763	60.87
Total	**58198**	**98079**	**156277**	**62.76**	**41549**	**63008**	**104557**	**60.26**	**260834**	**61.76**

196. Generally, female teachers are relatively junior in service compared to male teachers. Using the state of Johore as an example, data on primary school teachers reveal that in 1998, women constituted 70.5 per cent of those who had served for three years or less but only 37.8 per cent of those who had served for 34 years or more. This pattern is repeated in secondary schools. This partly explains why there are relatively few women heads of schools, as where selection is mainly based on seniority of service.

Table10. 22: Distribution of Teachers According to Years of Service And Gender – State Of Johore 1998

	Primary Schools				Secondary Schools			
Years Of Service	Male	Female	Total	% Female	Male	Female	Total	% Female
<3	1056	2521	3577	70.48	573	1844	2417	76.29
4-6	987	1977	2964	66.70	415	1111	1526	72.80
7-9	448	916	1364	67.16	421	677	1098	61.66
10-12	680	1244	1924	64.66	367	488	855	57.08
13-15	283	646	929	69.54	323	418	741	56.41
16-18	257	457	714	64.01	399	395	794	49.75
19-21	400	523	923	56.66	467	490	957	51.20
22-24	328	403	731	55.13	412	334	746	44.77
25-27	151	275	426	64.55	179	163	342	47.66
28-30	109	171	280	61.07	90	75	165	45.45
31-33	353	247	600	41.17	218	108	326	33.13
>34	217	132	349	37.82	57	33	90	36.67
Total	**5269**	**9512**	**14781**	**3921**	**3921**	**6136**	**10057**	**61.01**

Conclusion

197. In Malaysia, females have the same educational opportunities as males and studies show that they are making good use of these opportunities - girls stay longer in school than boys, female students outnumber male in public institutions of higher learning and in teacher training colleges. Women have caught up or are catching up with men in most fields of study, the only area of concern being engineering-related fields, where the FPR is still disproportionately low. Efforts are being made to address this and the Ministry is considering ways to encourage female students in school to choose electives such as Additional Manipulative Skills at the lower secondary school level, which will hopefully lead to them choosing to do engineering related subjects or courses later on.

ARTICLE 11

WOMEN IN EMPLOYMENT

Introduction

198. Malaysian women have contributed to the development of the country. While equal treatment is given to women at the work place, steps continue to be taken to further promote the participation of women in the labour market.

Women in the Labour Market

199. Malaysia has enjoyed full employment since emerging from the last recession in 1985. This is the result of economic growth spurred on by the manufacturing sector. There has been an increase in the number of rural women entering paid employment with many finding jobs in the manufacturing sector, particularly in the textile, garment and electronics industries. There has also been a marked increase in rural women's involvement in the services and hospitality industry.

200. Nevertheless, the labour force participation rate among women has remained rather low. In 1995, it was at 43.5 per cent for women while men's participation rate was 85.3 per cent. In 2000, the labour force participation rate for women increased to 44.5 per cent compared with 85.4 per cent for men.

201. The educational profile of Malaysia's labour force has progressively improved over the last few decades. Girls and women have benefited substantially from the drive to improve educational standards and qualifications in the country. In 2000, women accounted for 62.4 per cent of the 35,034 Malaysian university graduates.

202. Overall, the manufacturing sector has continued to absorb the highest numbers of women, accounting for about 27.3 per cent of the total workforce in 2000, as is consistent with the expanding opportunities in the sector. Another sector that recorded high female employment is the services and hospitality industry which recorded an increase from 52 per cent in 1995 to 56.9 per cent in 2000 as shown in Table 11.1.

Table 11.1: Employment by Sector and Gender, 1995 – 2000 (%)

Sector	1995		2000	
	Male	**Female**	**Male**	**Female**
Agriculture, Forestry, Livestock & Fishing	21.6	16.9	20.2	14.1
Mining & Quarrying	0.5	0.2	0.4	0.1
Manufacturing	20.2	29.4	20.6	27.3
Construction	11.3	1.5	12.1	1.5
Electricity, Gas & Water	0.9	0.2	0.7	0.1
Transport, Storage & Communication	6.2	1.7	6.1	1.7
Wholesale & Retail Trade, Restaurant & Hotels	16.6	20.5	18.1	22.3
Finance, Insurance, Real Estate & Business Services	4.3	5.6	4.5	5.7
Other Services	18.4	24.0	17.2	27.1
Total	**100**	**100**	**100**	**100**

Source: Eighth Malaysia Plan 2001-2005

203. Improvements were also recorded in the occupational structure, with more women moving into higher-paying occupations during the Seventh Malaysia Plan (1996-2000). The proportion of women in the professional and technical category increased from 12.7 per cent in 1995 to 13.5 per cent in 2000, while the proportion of women in the administrative and managerial category recorded an increase of 0.4 per cent during the same period as shown in Table 11.2.

Table 11.2: Distribution of Men and Women in Employment, 1995 and 2000 (%)

Occupational Category	1995		2000	
	Male	**Female**	**Male**	**Female**
Professional, Technical & Related Workers	8.4	12.7	8.9	13.5
Administrative & Managerial Workers	3.9	1.8	4.7	2.2
Clerical & Related Workers	7.5	17.5	7.1	17.5
Sales & Related Workers	10.5	11.6	11.1	12.1
Service Workers	9.4	14.4	9.5	17.4
Agriculture Workers	21.9	16.6	20.4	14.8
Production & Related Workers	38.3	25.4	38.4	22.6
Total	**100.0**	**100.0**	**100.0**	**100.0**

Source: Eighth Malaysia Plan (2001-2005)

Measures to Improve Conditions for Women

204. The Malaysian Government has taken various measures to improve women's participation in the labour market. This includes parental access to child-care facilities, as well as the promotion of part-time or flexible working-time. Employers were also encouraged to provide facilities such as proper housing scheme or benefits, transportation and healthcare benefits for all workers in particular the rural migrants, the majority of whom are women.

205. In addition, the Inland Revenue Board introduced provisions to provide tax deductions and incentives to employers for the establishment of child-care centres near or at the workplace. Various laws, the most significant of which are described below, also protect women in employment.

The Employment Act 1955 (Act 265)

206. The Employment Act 1955 without any reference to gender provides a comprehensive legal framework governing matters such as payment of wages, rest days, hours of work, holidays, termination and all other matters pertaining to employment. From the outset, the labour law in Malaysia has not permitted inequality or discrimination against women.

207. However, some of the provisions in the Act apply exclusively only to women. These relate to the employment of women at night and the provision of maternity leaves and other maternity benefits. Protection of women employees under the Act can be seen where they are not allowed to work in any industrial or agricultural undertaking between the hours of ten in the evening and five in the morning or to commence work for the day without having had a period of eleven consecutive hours free from such work. Women are also prohibited from carrying out underground work.

208. However, it is recognised that certain processes in manufacturing industries must be carried out continuously for technical reasons. The need to make intensive use of plants and

equipment and the increasing presence of women employees in the manufacturing sector have created a situation where exemptions to the provisions governing women workers are sometimes necessary. Thus, the Director-General of Labour is empowered under the Employment Act to grant approval for employment of women employees between the hours of ten in the evening and five in the morning subject to conditions that he deems fit to impose, such as payment of night shift allowances and transportation or accommodation facilities. Failure to comply with the conditions imposed could result in the employer's licences being revoked.

209. The Employment Act also secure a right for a woman employee to have not less than 60 consecutive days of maternity leave in respect of each confinement for up to five surviving children. The leave can be taken at any time during the 30 days immediately preceding her confinement or no later than the day immediately following her confinement. However, employers must be informed of the expected confinement date and of the expected date of commencement of leave within 60 days preceding the expected confinement date either orally or in writing. No employee may be dismissed from her employment while on maternity leave.

Employees who do not receive monthly wages during their maternity leave are also entitled to maternity allowance from their employer for up to five surviving children. The maternity allowance should not be less than RM6 per day. An employee whose employment is terminated or who is laid off by her employer after she has been in continuous employment for a period of not less than 12 months is entitled to receive termination or lay-off benefits.

210. Incidences of sexual harassment at the workplace are covered by both the civil and criminal laws. At present, a campaign is being carried out by Ministry of Human Resources which comprises seminars and educational programmes on sexual harassment. The Government through the Ministry of Human Resources has introduced a *Code of Practice on the Prevention and Handling of Sexual Harassment in the Workplace*.

211. The Code provides working definitions of sexual harassment and guidelines for employers on how to deal with it. For instance, employers are encouraged to set up grievance procedures in line with the principles set out in the Code. However, this Code of Practice is not a legally binding instrument and employers are not obliged to adopt the Code. Hence, the Ministry of Women and Family Development in consultation with the Ministry of Human Resources, non-governmental organizations, Malaysian's Employers Federation (MEF) and the Federal Malaysian Manufacturers (FMM) is currently studying a proposal to formulate a specific sexual harassment legislation.

212. The Employment Act 1955 was amended in 1998 to provide for flexible working hours and to allow for statutory benefits proportionate to that of full-time employees to be paid to part-time workers, among others. This move has been of special benefit to women in general, as because family responsibilities are still primarily borne by women in this country.

The Trade Unions Act 1959 (Act 262)

213. The Trade Unions Act 1959 recognises the right of employees to form trade unions and enter into collective bargaining. The Government upholds the concept of tripartism under which consultations on labour matters are held with employers' and employees' representatives to ensure that the interests of all concerned are taken into consideration. Women employees are not

prohibited from participating in trade unions, but are encourage to do so and their membership is shown in Table 11.3.

Table 11.3: Number of Employees' Trade Unions and Membership by Gender 1998 – 2000

YEAR	NUMBER OF UNIONS	MEMBERSHIP		
		TOTAL	**MALE**	**FEMALE**
1998	532	739,636 100 %	468,143 63.0 %	271,493 37 %
1999	537	725,322 100 %	461,938 63.7 %	263,384 36.3 %
2000	563	734,037 100 %	468,315 63.8 %	265,722 36.2 %

Source: Department of Trade Union Affairs, Ministry of Human Resources

Note: Does not include Employers' Trade Unions and Federation of Trade Unions

The Occupational Safety and Health Act 1994 (Act 514)/ The Factories and Machinery Act 1967 (Act 139)

214. Every employee has the right to protection of his/her safety and health at the work place. There is no discrimination based on gender. This right is clearly provided for under the two main laws which govern the safety and health of employees at work, namely the Occupational Safety and Health Act 1994 (OSHA) as well as the Factories and Machinery Act 1967.

215. To promote high standards of safety and health at work, the OSHA provides the legislative framework that covers the appointment of enforcement officers, the establishment of the National Council for Occupational Safety and Health and the formulation of safety and health policies at enterprise level. Specific provisions for the safeguarding of women's reproductive health from exposure to ambient factors present at the workplace are also included.

The Employee's Social Security Act 1969 (Act 4)

216. Under the Employee's Social Security Act 1969, local employees earning up to RM2,000.00 per month are entitled to timely and adequate provisions in the event of employment injuries, occupational diseases, invalidity or death. Higher paid employees can opt for coverage with the agreement of their employers. Employers contribute 1.75 per cent of an employee's monthly wage (1.25 per cent for employment injury benefits and 0.5 per cent for invalidity assimilated benefits) while employees contribute 0.5 per cent of their monthly wage for invalidity-assimilated benefits.

217. If an employee dies as a result of employment injury, his/her dependants are entitled to a Dependant's Benefit. Where an employee who is in receipt of invalidity pension dies, his/her dependants are eligible for the Survivor's Pension. As primary dependants, the widow will receive 3/5 of the full rate of benefit for life or until remarriage and the children will receive 2/5 of the benefit until they reach 21 or graduate from university or, if they are infirm, for the duration of infirmity.

218. The Minister of Human Resources, through the Employees' Social Security (Exemption of Foreign Workers) Notification 1993, has exempted all foreign workers (i.e. those who are not permanently resident in Malaysia) from being covered by the provisions of the Employee's Social Security Act.

The Workmen's Compensation Act 1952 (Act 273)

219. Foreign manual workers who earn up to RM 500 per month and Malaysian manual workers who earn up to RM400 are covered by the Workmen's Compensation Act 1952, which aims to assist workers who have lost their ability to work due to injury suffered in the course of their employment. Under this Act, the employer must compensate the injured worker or his/her dependants. Employers are required to insure themselves in respect of such liability.

The Employees Provident Fund Act 1991 (Act 452)

220. The Employees Provident Fund (EPF) is a forced savings plan, which aims to ensure that employees will have some savings to draw on in the event of retirement or disability. In the event of death, an employee's savings will be given to his/her nominated beneficiaries. Under the Employees Provident Fund Act 1951, any person who is employed under a contract of service or apprenticeship must contribute to the EPF from payment of the first month's wage onwards. Employers must also contribute for their staff. The statutory rate of contribution for employers is 12 per cent of the employee's monthly wage while employees' contribution is 11 per cent. The Act treats women workers no differently than men in terms of entitlement for benefits.

Wage Differentials

221. Malaysia ratified ILO Convention No.100 on Equality of Wages between men and women in September 1997. Women therefore are paid the same amount as men for the same job in both the public and private sector.

Training Opportunities

222. In line with the national labour policy of providing a pool of well-educated, highly skilled and strongly motivated workers to meet the needs of industrial development, the Government has accorded high priority to human resource development.

223. Traditionally, human resource has by and large been the domain of the public sector. However, this has slowly changed in recent years with the private sector aggressively involving itself in providing education and training in the country. Women have equal opportunities to undergo vocational training and retraining, including apprenticeships and advanced vocational training. However, the participation of women in industrial training is lower than that of men due to their lack of interest in taking blue-collar jobs. The number of women trainees at the Centre for Instructor and Advanced Skills Training (CIAST) under the Ministry of Human Resources (MoHR) from 1994 to 1998 is as shown in Table 11.4:

Table 11.4: Trainees CIAST According to Sex, 1994 – 1998.

NO	MODULE	1994			1995			1996			1997			1998		
		M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
1	**Mechanical & Production**	1102	49	1151	1339	84	1423	1767	90	1857	1847	115	1962	2003	147	2150
2	Electrical & Electronic control	683	108	791	1179	221	1400	1339	112	1451	2670	424	3094	1537	354	1891
3	Civil & Building	146	17	240	163	176	22	198	379	42	421	705	33	738	229	47
4	Printing	32	6	38	7	13	20	27	30	57	42	29	71	51	59	110
5	Non- Metalic	30	9	39	67	24	91	70	32	102	41	10	51	33	5	38

Source: Manpower Department, Ministry of Human Resources

Enforcement of Special Measures

224. The Ministry of Human Resources ensures that provisions for the health and safety of pregnant women and women employees generally are complied with. For instance, all women are entitled to 60 days maternity leave prior to and after the delivery. In addition, they must not be put on night shifts or given hazardous tasks that would jeopardize their health and that of the child.

225. Regular inspections and monitoring are done by the Labour Department to ensure that employers abide by the laws and regulations. Monitoring of these measures has not been formally assessed; however, complaints made by workers will be verified and acted upon. In addition, the trade unions are ever vigilant about any transgression of these rights.

226. These measures are not considered discriminatory under the law. But in a number of instances, employers are reluctant to employ women on account of these special provisions.

227. The Government is also concerned with the support services for working mothers such as the establishment of childcare centres. As at 30 April 2003, about 1,416 childcare centres (TASKA) have been established. These childcare centres are managed by trained individuals under the supervision of the Department of Welfare. The Government also encourages the private sector to establish childcare centres at the workplace. In 2002, a total of 86 childcare centres were established at the workplace.

228. Efforts to conduct research on women in various aspects of employment will continue to be undertaken. To address the issue of unemployment among female graduates, the Government, through the Ministry of Women and Family Development in collaboration with local universities and other relevant agencies is presently conducting a research with the aim to identify factors which caused a mismatch of academic qualifications and job opportunity in the labour market.

Conclusion

229. To attain the goal of making Malaysia an industrialised nation, the workforce must strive for quality and excellence through positive elements of labour protection and skills upgrading.

The Government will continue to review existing laws and regulations as well as their implementation and to upgrade labour standards, social security benefits and skills training to motivate the workforce. It will also continue to work to identify and rectify or eliminate the problems or obstacles, which hinder women's full participation in the workforce.

ARTICLE 12

EQUALITY IN ACCESS TO HEALTH CARE

Introduction

230. To appreciate how women have benefited from the health system in the country, some historical background is pertinent. Maternal and Child Welfare Services were established early in the 20th century in Peninsular Malaysia but they existed mainly in urban areas, catering for the families of the British colonists. The year 1923 was a watershed for the Maternal and Child Health (MCH) services with the introduction of legislation for the control of the practice of midwifery and the training of midwives in the Straits Settlements and subsequently in the other states of Peninsular Malaysia. In 1956, MCH services came to the forefront as an essential part of the National and Health Development Programme, and attention was given to rural areas. At that time, people resorted to traditional medicine as practiced by traditional birth attendants ('bidan kampung') and healers ('bomoh,' 'dukun'). These traditional practitioners are still being utilized, but to a much lesser extent.

231. During two decades following independence (1957-1977), the development of the health sector was a key area of concern in national development initiatives. The focus was on rectifying imbalances in the distribution of services and to identify and reach out to disadvantaged groups. This group conventionally includes rural populations, the poor, women, especially those of childbearing age, and infants and children.

232. Subsequently, a health infrastructure that prioritised universal access and optimal utilization was developed. Women, especially in relation to maternal health, were the main beneficiaries along with infants and children. By 1978, there was a relatively well-developed public sector health service.

233. The public health care system in Malaysia today provides a relatively well developed public health service exist in Malaysia, consisting of a rural network of midwifery clinics and health clinics. In 1999, the government health clinic to population ratio was 1:27,350 whilst the government health clinic to rural population was 1:15,432 and the midwifery clinics/ Community clinics to rural population was 1: 4,701, which has met the targets set by the Ministry of Health. Facilities are well distributed throughout the different geographical localities of the country; and in remote areas of states like Sabah and Sarawak, where there are no adequate static facilities, the people are provided with outreach services including a 'flying doctor' service.

234. However, there is still uneven distribution of health service providers in the geographical sense, and efforts are continually being made to redress this imbalance. During the Fifth Malaysia Plan (1971-1975), following a WHO assisted study in early 70's on local health services, three-tier system was converted to a two-tier system. From 1959 thereon, there was extensive development of infrastructure network of health facilities with emphasis in rural areas.

This network was in the form of Rural Health Units (RHU), each RHU serving a population of 50,000 with a 3 tier set up of 1 main Health Centre, Health Sub centres and midwifery clinic. From the early 70's, there was a need to upgrade the quality of the service and care. This led to the reorganisation of the rural health structure from a 3 tier to 2 tier system. Under this system health sub centres are upgraded to a health centre (covering a population of 15,000- 20,000) with a doctor, one midwifery clinics (covering a population of 4,000) are upgraded to village clinics or Klinik Desa. This was accomplished by upgrading of personnel with the midwife being converted to a community nurse and hence providing an increased scope of services at first contact level. The rural midwife, the most peripheral of the health care providers, was retrained to become a community nurse, who could provide care for minor ailments as well as the basic elements of a maternal and child health service. This has, to a large extent, improved MCH services in the rural areas and contributed to a lowering of maternal and child morbidity and mortality.

235. The basic essential services provided through the rural service network are outpatient treatment for common diseases, maternal and child health care, communicable disease control, environmental sanitation, dental care, health education and simple laboratory investigations.

The Health Care System Today – The Focus on Women

236. The Malaysian health care system has achieved some degree of success, and is reputed to be among the best in the region. Although the health policy initially gave preference to 'women of reproductive age' who were traditionally considered to be 'disadvantaged,' this has undergone review. Today, the services cater for all women regardless of their reproductive status and function, although reproductive health (in the form of traditional maternal health services and planning) remains a special concern.

237. Areas of women's health covered by the health care system include screening for early detection of cancer, health education (on general health as well as on special topics of concern to women), health needs of working women and environmental issues affecting women. The initial focus on maternal health has now been expanded to include other aspects of health and what used to be the MCH service is now more appropriately termed the Family Health Development Programme. It can be claimed that the health system has begun to shift its focus from 'motherhood' to 'womanhood,' and indeed with greater emphasis on the role of men and the family, the shift will move towards 'parenthood.'

The Health Care System – Some Future Trends

238. There are many characteristics of the current health system that need strengthening or even changing to cater for future needs. Some of these are described below:

(i) Primary Health Care (PHC)

PHC will continue to be the thrust of the future, and its basic principles need to be enhanced. These are i) equity and universal access to health services, ii) the use of appropriate technology and iii) promotion of self-reliance and responsibility in health. The impact of these principles on the health of women, and on women's role in determining their own health and the health of others need to be studied and monitored.

(ii) Quality of Care

Quality of care entails continuously reviewing the scope and approaches to health care delivery and the resources that are available. Women especially will especially benefit from this considering the wide range of services they utilise.

(iii) The Wellness Paradigm

Women will benefit significantly from a health care system that stresses wellness rather than illness since many of the conditions that bear on women's health, such as pregnancy and menopause, are not conditions of disease. With this paradigm, it is expected that indicators for women's health will go beyond bio-medical measures such as longevity, morbidity and mortality. The Well Women's Clinic and the Lifetime Health Plan are examples of initiatives based on wellness.

(iv) Work Process and Technology in Health Care

While the government's achievements in building infrastructure and expanding the scope of women's health are commendable, the time has come to look into non-physical or 'softer' factors such as procedures and technologies that are accessible and friendly to women.

(v) Informed Patients

Building a knowledge based society and developing technology which would foster the acquisition of knowledge has been a key focus in Malaysia's process of development. Women have benefited significantly from this and Malaysians generally have become a lot more informed and knowledgeable about their health and are in a better position to make health related decisions. The health care system of the future must cater for patients who are more empowered and knowledgeable.

(vi) Health Needs of Urban Communities

The emphasis on rural communities of the health care system has benefited rural women significantly. A major area of concern today, therefore, is the health needs of those living in urban areas, especially those who are poor or marginalized in some way. These people face the double burden of diseases caused by poverty (e.g. infections, malnutrition) and modern/urban-associated diseases (e.g. cancer, heart disease, mental illness).

(vii) Integration and Partnership

The Ministry of Health is not the only provider of health care. There are other providers, both governmental and non-governmental, including traditional practitioners. It must be recognised that health is multi-factorial and no one sector can ensure health from every aspect. Women have an important role in optimising the health of the nation – many women are in formal health systems, are members of health related NGOs and/or are versed in indigenous/traditional systems of healing. This needs to be tapped for maximum benefit to the nation.

Gender Perspectives on Health

239. The gender perspectives on health utilised in the Malaysian health care system are based on four basic principles:

i) health as a right;

ii) promoting equity and access and the avoidance of disparity;

iii) recognising the biological and other factors that result in gender based differences in health needs; and

iv) promoting the role of women in optimising their own health and that of others.

Health as a Human Right

240. In Malaysia access to health and health care is given equally to men and women - in fact women, because of needs associated with maternity and so on are provided with more services. There are many specific legal instruments that address women's right to health, such as the minimum age for marriage and laws against domestic violence.

Ensuring Equity and Access; and Avoiding Disparity

241. In the Second National Health and Morbidity Survey (NHMS2) conducted by the Ministry of Health in 1996, there is evidence that overall access to health services is good and that there is no gender difference, as shown below:

a) Population Living Within 5 km of a Health Facility

- 88.5 per cent of Malaysians live within 5 km of a health facility
- The figure in Peninsular Malaysia is 92.9per cent; it was 89 per cent ten years ago
- The figure is lower in Sabah (76.3 per cent) and Sarawak (60.5 per cent).

b) Population Living Within 3 km of a Health Facility

- 81.1per cent of Malaysians live within 3 km of a health facility
- The figure in Peninsular Malaysia is 85.9 per cent; it was 74 per cent ten years ago
- The figure is lower in Sabah (65.9 per cent) and Sarawak (48.3 per cent).

242. While these data are not gender disaggregated, there is no gender difference in terms of physical access to health facilities. The recent economic downturn in East Asia did not affect Malaysians significantly because resources for health were maintained by a deliberate government policy.

243. Generally, there is indirect and qualitative evidence to suggest that some groups of women e.g. disabled/migrant/aboriginal or indigenous women and those who are living/working

in estates and plantations are marginalised in terms of access to health services and facilities. However, no reliable data is available.

The Special Health Needs of Women

244. Women have different health needs from men because of biological, demographic and socio-economic differences.

a) Biological Factors

The biological factors include the important area of reproductive health and rights, as well as the diseases which affect women mostly or specifically, although women also suffer from a host of conditions that affect men. The main biological factors are:

(i) Conditions/diseases that affect men and women almost equally, such as infectious diseases arising from an unclean environment

(ii) Conditions/diseases that affect both men and women, but are commoner in women e.g. rheumatoid arthritis;

(iii) Conditions/diseases that affect both men and women, but have different implications and consequences in women e.g. HIV/ AIDS;

(iv) The different lifestyle-related health problems of men and women e.g. smoking related diseases or those related to a sedentary lifestyle and being overweight, alcohol abuse;

(v) Diseases that affect women exclusively (cancer of genital organs), or almost exclusively (breast cancer); and

(vi) Conditions arising out of the different phases of the female life-cycle - the girl child, the adolescent girl, the aging woman.

b) Demographic Factors

There are several demographic factors that directly affect women's health, the most important of which isfertility and reproduction, and the control of fertility. Other major factors areaging and the feminisation of aging; and migration, whether within the country (rural to urban) or inter-country (legal and illegal migrants).

c) Socio-Economic Factors

These include:

(i) The subservient status of women in some societies and cultures;

(ii) The roles assigned by society to women in health care;

(iii) Social ills, such as violence against women, female genital mutilation;

(iv) Poverty and the feminisation of poverty;

(v) The plight of working women including estate workers; and

(vi) The plight of marginalized women e.g. those in remote areas, migrant women, sex workers.

The impact on women of the above factors differs among countries. Needless to say, some of these are extremely difficult to measure quantitatively. The situation in Malaysia is described in Section 12.5 ('Health For Women').

d) Women as Carers and Health Providers

In almost all societies and cultures, women care for the sick, disabled and elderly. They also play a very significant role in the formal health care system, as health care providers of various categories. *The situation of women as carers and health providers in Malaysia* is described in Section 12.6 ('Women for Health').

Health for Women

245. This section presents a broad picture of the situation of women's health in Malaysia, focussing on the main threats or problems with regard to women's health. Section 12.6 goes on to describe the services and facilities available in the country.

Reproductive Health and Related Demographic Parameters

246. There are three important issues that need to be discussed under reproductive health: i) fertility, ii) the sex and age structure of the population and iii) population aging and the aging of women.

a) Fertility

The population of Malaysia is growing at a rate of 2.3per cent annually. As a consequence of declines in both fertility and mortality, this rate is expected to decrease. In 1960, the average number of children born to a woman was 6.2, and now it is 3.3. By these parameters, Malaysia's current population of slightly more than 22 million is estimated to reach 27.8 million in 2010 and 33.4 million by 2020.

Socio-economic development together with efforts made in health and family planning programmes have resulted in rapid declines in fertility and mortality and increased life span. Fertility transition, which began in the 1960's has continued on to the current levels in the 1990's.

b) Age and Sex Structure of the Population

As a result of declining growth, lower fertility and lower mortality, the proportion of young people is becoming smaller compared to older age groups. In 1960, children aged less than 15 accounted for 49 per cent of the population. Productive adults (15 – 64 years old) also made up 49 per cent of the population. In 1996, the former accounted for 35 per cent and the latter for 59 per cent of the population. Twenty years from now, these figures are expected to be 30.5 per cent and 63.35 per cent respectively. The aged population (65 years and above) has also increased, from 3.1per cent in 1970 to 3.7 per cent in 1991and 4 per cent in 2000. It is expected to reach 6.2per cent in 2020.

c) Population Aging and the Aging of Women

Life expectancy for Malaysians, both men and women, has been increasing over the years. In 1948, the life expectancy for men was 47 years and for women 50 years. By 1996, the life expectancy had risen to 69.3 years for men and 74.0 years for women.

247. The feminisation of aging, whereby there are significantly more elderly women than men have several implications, the main ones being:

(i) For many women, the later years of their lives will feature disability, disease, widowhood, loneliness and dependency.

(ii) The major changes in reproductive functions need more medical attention in women than in men e.g. menopause and its attendant conditions; thus the health care system will have to be prepared to deal with this.

(iii) Many elderly women have little financial resources and this may result in them having less access to health care.

248. The Ministry of Health has begun to pay attention to aging and health care for the elderly, however not much emphasis has been given to the gender differential except for the concern over menopause. Malaysia has formulated a national policy on aging, and has begun social and health services for the elderly men and women.

Maternal Morbidity and Mortality

249. Women's health and lives are still being threatened by conditions arising out of pregnancy, childbirth and the puerperal period. While maternal mortality in Malaysia has declined appreciably to less than 20 per 100,000 live births (it was 83 in 1975), vigilance and the strengthening of effective strategies is necessary in order to reduce this rate further.

Table 12.1: Maternal Mortality in Malaysia by State, 1975- 1998
(Maternal Deaths per Thousand Live Births)

State	1975	1985	1995	1998
Perlis	1.06	0.72	0.0	0.2
Kedah	1.09	0.55	0.2	0.3
Pulau Pinang	0.42	0.30	0.2	0.3
Perak	1.02	0.43	0.3	0.2
Selangor	0.49	0.22	0.2	0.2
Kuala Lumpur	N.A.*	0.08	0.3	0.4
Negeri Sembilan	0.25	0.40	0.2	0.1
Melaka	0.38	0.06	0.1	0.4
Johor	0.67	0.24	0.3	0.2
Pahang	1.71	0.65	0.3	0.4
Terengganu	1.01	0.58	0.2	0.1
Kelantan	1.28	0.60	0.1	0.2

Peninsular Malaysia	**0.83**	**0.37**	**0.2**	N.A
Sabah	N.A.	0.21	0.2	0.4
Sarawak	N.A.	0.10	0.1	0.2
Labuan	-	-	0.0	1.5
Malaysia	**N.A.**	**0.34**	**0.2**	**0.3**

(N.A.) Not Available (*) included in Selangor

Source:
1975 - Vital Statistics, Peninsular Malaysia, Department of Statistics, Malaysia 1975.
1985 - Information and Documentation Unit, Ministry of Health1988.
1995 - Information and Documentation Unit, Ministry of Health 1997.
1998 - Social Statistics Bulletin, Department of Statistics, Malaysia.

250. Maternal morbidity is another measure that needs to be monitored; it is not enough that deaths are prevented, it is also important to reduce the risk/ causes for such deaths and to ensure optimal health for women in this critical physiological function that they perform.

Table 12.2: Infant Mortality in Malaysia by State 1975 – 1998 (Infant Deaths per Thousand Live Births)

State	**1975**	**1985**	**1995**	**1998**
Perlis	42.6	17.7	8.5	8.7
Kedah	40.2	20.0	7.8	9.5
Pulau Pinang	28.9	13.8	9.5	7.8
Perak	32.9	19.3	10.4	7.1
Selangor	27.1	13.2	6.8	5.9
Kuala Lumpur	N.A.*	9.6	13.4	11.5
Negeri Sembilan	26.8	12.4	12.5	7.8
Melaka	33.9	16.9	9.7	9.5
Johor	31.0	15.1	9.6	7.6
Pahang	32.0	16.8	10.1	10.8
Terengganu	38.4	22.1	12.3	11.4
Kelantan	44.1	25.5	11.4	9.6
Peninsular Malaysia	33.2	17.0	9.8	8.5
Sabah	N.A.	17.6	N.A.	11.5
Sarawak	N.A.	11.3	N.A.	6.2
Labuan		-	N.A.	24.1
Malaysia	N.A.	16.78	N.A.	8.1

Source:
1975 - Vital Statistics, Peninsular Malaysia
1985- 1998 – Information and Documentation Unit, Ministry of Health

251. Conditions such as anaemia in pregnancy and maternal malnutrition have declined but a lot more needs to be done. Much of the mortality now is caused by or related to conditions less

easy to manage such as pregnancy-induced hypertension, haemorrhaging before, during or after the birth and embolism. The rates for prenatal and infant mortality have also declined, as indicated in Table 12.2.

252. The issue of abortion is closely related to maternal mortality and morbidity. Abortion has not been legalized in Malaysia, but it is permitted on certain grounds. Prior to 1989, an abortion was only permitted for the purpose of saving a woman's life. Since then, the law has been amended to allow for 'therapeutic abortions' i.e. abortions can be done if the pregnancy is likely to result in danger to the mother's physical or mental health. However, the patient must obtain the approval of two government medical specialists before this can be done.

253. Recognising that many illegal abortions take place, government policy requires that medical practitioners performing abortions – whether legal or not – must treat the patient humanely and do everything possible to save her life or restore her to health, just as for any other medical condition.

Causes of Morbidity and Mortality in the General Female Population

254. Apart from issues relating to maternal morbidity and mortality, the health care system in Malaysia is also concerned about conditions which threaten the health of women generally. These include conditions which affect women exclusively (e.g. "female" cancers or diseases) or, which, although not exclusive to women, have biological of socio-economic implications which are specific or particularly relevant to women e.g. HIV/AIDS.

HIV/AIDS

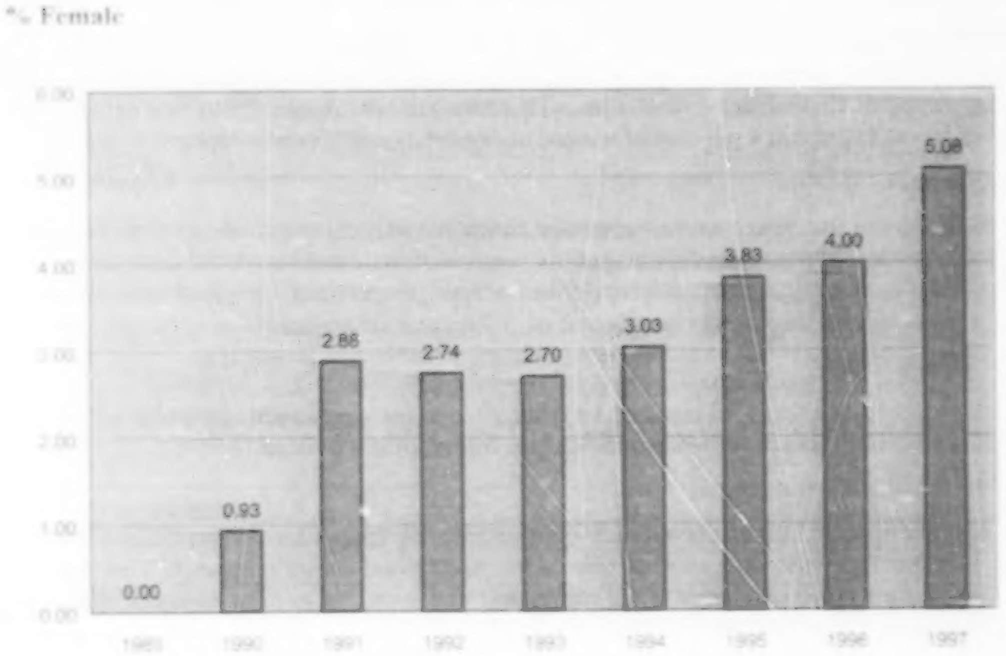
255. The first recorded AIDS case in Malaysia was reported in 1986. In 1990 there were 756 recorded cases of HIV infected persons and this rose to 4,230 in 1995. The sharp rise in reported cases is probably partly due to the active screening in the early 1990s of persons with high-risk behaviours, especially drug users in correctional institutions. Currently, the number of newly infected persons remains almost stable at about 4,000 a year. The majority of these are males, who make up 96 per cent of HIV-infected people and 94 per cent of people with AIDS. The highest incidence is among drug users. However, the proportion of females being infected is on the rise, suggesting the greater role played by sexual transmission. Please refer to Chart 12.1

256. Sexual transmission is therefore an area of concern for women because women are biologically vulnerable to STDs, which make them even more vulnerable to HIV with loss of integrity of the vaginal cellular lining; it accounts for at least 24.3per cent of AIDS cases and 8.8per cent of HIV infections.

257. A key issue is the inappropriateness for women of current AIDS/HIV prevention campaigns and strategies. For instance, these initiatives emphasise the importance of reducing sexual partners but women, as opposed to men, are largely monogamous, except for sex workers regarding whom the socio-economic factors are complex and require separate strategies and policies. Similarly, fidelity in marriage and proper and consistent condom use are often advocated; however, while many women are faithful to their husbands, very few can ensure that their husbands are faithful to them and few women are in a position to insist that their husbands or partners use condoms.

258. Compounding these problems is the fact that biologically, women are more vulnerable to STDs and HIV infection. In addition, many high-risk women are of child-bearing age, opening up opportunities for prenatal transmission leading to paediatric AIDS.

Chart 12.1: Percentage of Females Among HIV- Infected Persons in Malaysia 1989-1997



Source: AIDS/STD Section, Ministry of Health

Cancer in Women

259. Breast cancer and cervical cancer are leading causes of death among women worldwide. In Malaysia, both are prevalent. Breast cancer has surpassed cervical cancer to become the leading type of cancer among Malaysian women. Of the approximately 16,000 female deaths medically certified and inspected in 1998, 12.6 per cent were due to cancer, of which 26 per cent were due to breast and cervical cancer.

260. Since the causes of these cancers remain obscure (although some risk factors have been postulated) primary prevention is not feasible. Fortunately, secondary prevention is possible through screening procedures for both these cancers. The NHMS2 shows that only 26 per cent of women aged 20 and above have ever undergone the Pap Smear test, and only 47 per cent have had their breasts examined. Pap smear screening has been provided for all women in all government clinics. Efforts are being made to encourage women to examine their own breast or to undergo breast examination conducted by health workers, and all major hospitals in the

country has established breast clinics. Mammograms are free to women who are considered to be at high risk.

Lifestyle Related Health Problems among Women

261. Lifestyle-related diseases are becoming important causes of ill-health in Malaysia. Since 1991 the Ministry of Health has been carrying out the Healthy Lifestyle Campaign which addresses several risk factors such as smoking, poor diet and so on.

a) Smoking

The NHMS2 found that 3.5per cent of Malaysian women aged 18 years and above were smokers, compared to 49.2 per cent of men. This rate has not changed from that of ten years ago, when it was found that 4 per cent of women above the age of 15 were smokers.

b) Exercise

The NHMS2 shows that fewer women exercised compared to men, and fewer of them exercised adequately. While 37.8per cent of men aged 18 years and above exercised, only 25 per cent of women from the same age group did so. While 16.2per cent of men exercised adequately for optimal cardiovascular fitness, this in only true of 7.7per cent of women.

c) Body Weight

The same study shows that 17.9 per cent of adult women are overweight compared to 15.1per cent of adult men. 5.7per cent of women and 2.9per cent of men are obese.

d) Blood Cholesterol Level

While diet, obesity and lack of exercise are independent risk factors for cardiovascular diseases (CVD), they are also related to another risk factor, high blood cholesterol level. The NHMS2 found that young women had lower blood cholesterol than men, but as ages advanced the levels were comparable. This underscores the role of female hormones in controlling blood cholesterol levels. One of the objectives of tobacco control is to reduce the prevalence of the tobacco use among Malaysian not more than 10 per cent by the year 2010.

The Girl Child and the Adolescent Girl

262. Adolescents of both sexes have special health needs, and these have biological, social, economic and cultural bases. The health related areas of concern are:

- Reproductive health and sexuality, including issues such as teenage pregnancies, unwanted pregnancies, unsafe pregnancies and childbirth, and abortions, as well as sexually transmitted diseases;
- Substance abuse; and
- Vehicular and other forms of accident and injury, and risk-taking behaviour.

263. Data on adolescent health in Malaysia is not readily available. However, population census 2000 shows 3 per cent of adolescents 15 – 19 years of age were ever married with 1 per cent among boys and 5 per cent among girls. Approximately 3 per cent of the total live birth in

1998 occurred among ever-married girls age 15 – 19 years, 28 per cent of which are of second or more live birth order. The fertility rate of these adolescences is 15 per 1000 girls. National Population and Family Development Board (LPPKN) study on adolescence sexuality 1994/ 1995 shows more girls (66.7 percent) than boys (57.1 per cent) had heard of oral contraceptive. The NHMS2 shows that 30.7 per cent of secondary schoolboys and 4.8 per cent of schoolgirls claimed to have smoked cigarettes. Drug abuse was found in 3.4per cent of boys and 1.2 per cent of girls, while alcohol drinking was found in 13per cent of boys and 5.6per cent of girls.

264. An emerging health problem for adolescent is mental illness, and since there is a higher incidence in women than in men, intervention for young girls is important. Eating disorders such as anorexia and bulimia are more common in girls, and there is evidence that these problems are emerging among Malaysian girls.

Aging Women

265. There may be several gender differences in aging between men and women. For women, the menopause, with its physical, psychological and social dimensions, is of special significance. A study conducted by the shows that some health problems are commoner in women than in men, as indicated in Table 12.3.

Table12. 3: Health Problems Experienced by Elderly Men and Women

Condition	Prevalence (%) In Men	Prevalence (%) In Women
Weakness in limbs	48.8	54.5
High or low blood pressure	17.3	32.0
Diabetes	21.3	24.2
Heart Disorders	18.1	23.0
Brittle bones	5.5	20.8
Eye problems	26.0	20.8
Ear problems	8.7	5.6

Source: National Population and Family Development Board, Family Care of The Elderly in Klang Valley 1992.

266. As many women outlive their husbands, aging for them may be accompanied by poverty, loneliness, neglect, isolation and dependence on others.

Mental Health of Women

267. Mental illness is a major health problem for women, and to a large extent this arises out of their unequal status is society and the consequent stresses that they face. Mental disorders are generally associated with alienation, powerlessness and poverty, conditions more acutely experienced by women than by men. Depression is found to be 2 – 3 times commoner in women than men, and some mental disorders are specific or almost exclusive to women such as post-partum psychoses and the eating disorders of young girls. The NHMS2 found that the prevalence of mental disorder in women was 1.5 times higher than that of men.

Violence Against Women

268. This topic is discussed in detail in the chapter on Article 5 (Sex Roles and the Stereotyping of Women.) In 1998, the Ministry of Health in partnership with other agencies, established one-stop crisis centres at all major hospitals for proper and co-ordinated management of rape and other forms of violence against women and children.

Health Services For Women

269. In terms of services, while reproductive, maternal and child health services are still a key area, the scope of health services for women have expanded considerably.

Maternal and Child Health (MCH) Services

270. Maternal health services consist of antenatal, intra-natal and post-natal care. 70 per cent of the pregnant women receive antenatal care.

271. It is estimated that for each pregnancy, a woman makes about seven visits to health centres for antenatal services, which are provided free at government centres. With regard to intra-natal care, more than 95 per cent of deliveries in Malaysia are conducted by skilled attendants. Even when the birth attendant is utilized for a home delivery, she is almost always accompanied by a government-trained midwife or nurse. Mothers are given post-natal nursing care up to the end of the post-partum period. These MCH services have contributed, in no small measure, to the reduction of maternal and infant mortality in the country. In addition, several initiatives for the further reduction of maternal mortality have been introduced. These include:

a) Training traditional birth attendants (TBAs);

b) Utilising a risk approach strategy which identifies mothers with higher risks;

c) Utilising a safe motherhood initiative to further strengthen the high risk approach;

d) Increasing access to family planning services and facilities;

e) Developing management guidelines for conditions that can cause death;

f) Developing a plan of action for community participation;

g) Strengthening resources and capabilities at operational levels;

h) Introducing home-based records for better continuity of care;

i) Setting up alternative birthing centres;

j) Providing half-way centres for mothers from very remote areas; and

k) Establishing a confidential enquiry system for maternal deaths.

272. While the health sector can address health and biological risks, the social factors are complex and more difficult where intervention is concerned. The Safe Motherhood Initiative deserves special mention, because it goes beyond biological factors and addresses social factors. Its strategies are:

a) Redressing social inequities confronting women;

b) Ensuring access to family planning;

c) Developing community-based maternity care; and

d) Provision of back-up and support services at first level of care

Family Planning and Contraception

273. Family planning services are provided by four main agencies – the Ministry of Health, the National Population and Family Development Board, the Family Planning Associations and the wide network of private medical practitioners. These agencies ensure access and coverage for urban and local populations, as well as a wide choice of methods. Women do not require any form of official consent to avail themselves of these services.

274. There is evidence that there has been an upward trend in family planning practice - in 1974, only about a third of couples practiced contraception, now more than 50 per cent of couples do. While a wide range of methods is available, the most popular is still the Pill, which is indicative of the fact that the responsibility for family planning is mostly assumed by women. However, the rate of condom use has increased, from 2.3 per cent in the mid-sixties to 4.4 per cent in the mid-eighties and 9.4per cent in 1994. This trend of males taking more responsibility for contraception must be further encouraged.

275. Family planning services have often come under criticism for their objectives based on demographic consideration, which may be at the expense of women's needs and women's health. Basically, family planning services are used for spacing of births- at least two years. Infertility is another area of concern. It is estimated that about 15 per cent of married Malaysian couples are infertile. Currently, public services for this problem are not widely available in this country, and the costs at private centres are too prohibitive for many people.

Cancer Screening

276. The number of women who undergo cancer screening is dismally small. Recognizing the importance of early detection, government facilities have offered the Pap Smear test to all women who use family planning methods since 1981 and to all women regardless of family planning practice since 1995. Where necessary, screening is also done by colposcopy for direct examination.

277. Efforts are being made to encourage women to examine their own breasts or to undergo breast examinations conducted by health workers, and all major hospitals in the country have established breast clinics. Mammograms are offered free to women who are considered to be at high risk.

Nutrition and Dietetics

278. Women tend to have a higher prevalence of being overweight than men, and they exercise less frequently. Nutrition education emphasizing a healthy diet using several approaches has been implemented; a major approach is the Ministry of Health's Healthy Lifestyle Campaign. Currently, these initiatives are in general and it has not addressed the specific gender.

279. In terms of the MCH, some of the strategies towards ensuring adequate nutrition of mother and child that have been implemented include:

a) Nutrition education;

b) Supplementary feeding programmes;

c) Iron and vitamin supplementation for pregnant mothers;

d) Programmes on specific deficiencies e.g. salt iodination for iodine deficiency;

e) Breast feeding promotion;

f) Provision of food baskets to malnourished children in poor families; and

g) Developing the National Plan of Action for Nutrition, which has a multi-agency approach.

280. Women, especially working women, need more support and encouragement to breastfeed, and several efforts towards this have been made with the result that the rate of breastfeeding has increased. The NHMS2 reports that 88.6 per cent of mothers now breast feed, and the mean duration is 28 weeks – an improvement over the rates reported in the 1980, which rarely exceeded 80per cent.

The Well Women Clinic

281. Recognizing the varied services needed by women besides those related to maternal care or treatment of ailments, the Ministry of Health has begun to set up Well Women clinics which provide a whole range of services aimed at holistic care, and emphasize promotion and prevention. The clinics also look into the needs of elderly women and provide intervention for menopausal symptoms if needed.

Women for Health

282. While the health care system in Malaysia recognises the importance of addressing the needs of women as patients, it also recognises that women have contributed substantially towards the development of health care and that they play a significant role in both the formal and informal sectors of the health care system in the country.

Formal Health Care

283. More than one-third of the more than 100,000 workers employed by the Ministry of Health staff are nurses, almost all of whom are women. In the country context, there has been an increase in the number of women in various categories of the health sector from 1980 to 1991, as shown in Table 12.4. It is encouraging to note that the proportion of women professionals in this sector including doctors, pharmacists and dentists is increasing. However, the proportion of women who are in policy and decision making positions remains small.

Table 12.4: Distribution of Health Workers by Sex, 1980 and 1991

Occupation	**Percentage (%) of Workers**			
	1980		**1991**	
	Male	**Female**	**Male**	**Female**
Physicians and surgeons	78.1	21.9	68.4	31.6
Medical assistants, medical laboratory assistants & related technicians	86.9	13.1	79.1	20.9
Dentists, dental professional nurses and dental assistants	32.8	67.2	31.7	68.3
Pharmaceutical assistants	57.5	42.5	45.9	54.1
Non-professional nurses (except dental)	2.0	98.0	2.0	98.0
Non-professional nurses (dental and medical)	3.9	96.1	5.3	94.7

Source: Census 1980 and Census 1991

Informal Health Care

Family and Community Care

284. Women bear much of the responsibility for maintaining health in society. In the home, it is usually women who attend to the health needs of the household – overseeing the children's dietary needs and educating them on healthy habits, managing the overall hygiene and safety of the household, ministering to the ill or elderly and so on. In indigenous communities, it is often women who are the healers due to their knowledge of indigenous or folk medicine. This is especially so in pregnancy and the birthing process - almost all TBAs are women. Unfortunately, women's contributions in terms of informal health are seldom acknowledged in economic terms.

NGOs

285. NGOs play a very important role in promoting health in the country. Their contributions include complementing or supporting government programmes or initiatives, providing education and information on a wide range of health related issues, offering services such as palliative care and performing community mobilization and advocacy.

Conclusion

286. Overall it can be said that Malaysian women are not greatly disadvantaged in terms of access to health - indeed women have sometimes been accorded special status in terms of the services provided. However, there are still many areas for intervention and further improvement, such as expanding the services from the bio-medical model to cover the socio-economic and cultural factors that affect women's health.

ARTICLE 13

SOCIAL AND ECONOMIC BENEFITS

Introduction

287. Although Malaysia is not a welfare state where a citizen receives monetary payment from the public coffers for not being gainfully employed, there are other individual or family benefits. These benefits include public housing schemes for the low-income group, various kinds of assistance given under the hard-core poverty alleviation programme, social benefits for disabled persons and the pension scheme. These benefits are generally implemented through various laws and regulations and are non-discriminatory with respect to gender.

Tax Benefits

288. Under the Income Tax Act 1967 (Act 155), a wife can choose to have her income assessed separately from her husband's. This is in recognition of the financial independence of Malaysian women who increasingly constitute an important proportion of the Malaysian work force, both in the public and private sector. In addition, the husband and wife are entitled to make a choice as to who should claim their children's tax relief.

289. Similarly, either the husband or wife may claim medical expenses for parents, which was incurred in the year of assessment. In addition, either the husband or wife can claim tax relief for medical expenses of a spouse or child suffering from a serious disease and for the purchase of medical support equipment for the individual's own use, or for other family members including parents who are disabled. Another benefit under the Income Tax Act is that individuals attending training at government recognized institutions for the purpose of acquiring technical, vocational or industrial skill are entitled to tax relief on their fees. This is in addition to the tax deduction one gets if one is a disabled person.

Banking and Financial Institution Act 1989 (Act 372)

290. The Banking and Financial Institution Act 1989 (BAFIA) and other related banking and financial legislation do not discriminate on the basis of gender. BAFIA covers three categories of financial institutions - licensed, scheduled and non-scheduled institutions. Although the Government has adopted a tight monetary stance from time to time to discourage rapid growth in consumption, measures have also been taken to ensure that the consequent tightening of liquidity does not affect the accessibility to credit of certain sectors of the economy or to the lower and middle-income groups of the population. There have been no reports of financial credit or loans being denied to any group although, in practice, women seem to constitute a low proportion of those taking loans from commercial banks and other financial institutions.

Housing Loan Fund Act 1971 (Act 42)

291. In the public sector, both male and female officers have equal access to government housing loans and conveyance loans under the Housing Loan Fund Act 1971. Gender is not a consideration in assessing an applicant's suitability for a housing or conveyance loan; instead, factors such as the applicant's years of service, seniority and ability to repay the loan are taken into account.

Maternity Benefits

292. Under the nation's labour provisions, maternity benefits are given to all women up to the fifth birth for a period of not less than 60 days. In both the public and private sectors, the husband is given paternity leave up to a period of 7 days for the birth of each child. In addition, an increasing number of employers have provided childcare centres at the work place.

293. Although the Employment Act 1955 guarantees equality to both men and women, it contains certain provisions aimed at protecting women in the workplace such as the a provision prohibiting women from working underground or the midnight shift without the prior approval of the Director General of Labour.

The Factories and Machineries Act 1967 (Act 139) and The Employees' Social Security Act 1969 (Act 4)

294. The Factories and Machineries Act 1967 requires that a rest room for women must be provided in any factory where 15 or more women are employed. The Employees' Social Security Act 1969 (SOCSO), which provides for dependant benefits and survivors' pensions, also has clauses which provide for a worker's wife and children in the event of his death.

The Pension Act 1980 (Act 227)

295. Under the Pension Act 1980, workers are paid pensions based upon a predetermined formula irrespective of gender. In the case of a male pensioner who dies, his widow and children will continue to receive his pension and vice versa. The pension is paid directly to the widow even after she remarries and to the children until they attain the age of maturity.

Sports and Recreation

296. There is no discrimination against women in terms of participation in recreational activities, sports or any aspect of cultural life. In the public sector for example, both male and female officers from Division 1 can apply for a Government subsidy for membership fees when joining sports or recreational clubs.

Conclusion

297. In conclusion, efforts to improve the social, legal and economic welfare of women in Malaysia will continue, including efforts to enhance the role, position and contribution of women in the socio-economic development of the country. Measures to create a gender-positive environment will be implemented in both the public and private sectors. Moreover, efforts to address and change the prevailing negative stereotyping and perceptions of the role of women will be continued and educational and training opportunities will be provided to enable more women to participate more effectively in the labour market.

298. Laws to further improve the advancement of women will continue to be reviewed. To educate women and increase their awareness of their rights under the existing laws, the Government through the Ministry of Women and Family Development and other Government agencies with the assistance of relevant NGOs will continue to organize legal literacy programmes for women.

ARTICLE 14

RURAL WOMEN

Introduction

299. The Department of Statistics, Malaysia, defines rural areas as "all other gazetted local authority areas with a population of less than 10,000 persons and non-gazetted areas."

Economic Development

300. On the whole, the average household income in the rural areas is much lower to that of urban households even though the rural sector contributes 45 per cent of the total labour force in Malaysia. The rural/urban income ratio was 1:1.98 in 1995. The rural development programmes carried out under the Seventh Malaysia Plan (1996-2000) have widened the gap further to 1:2.0 (Table 14.1).

301. The incidence of poverty is a matter of concern in the rural areas. Although the poverty rate declined from 21.1 per cent in 1990 to 15.3 per cent and in 1995, the rate is higher than in the urban areas, which is 3.6 per cent. With a 10.3 per cent poverty rate (222,800 households) expected in the year 2000 in the rural areas, it appears that one out of ten households in rural Malaysia still live under the poverty level. However, this figure is a tremendous improvement compared to one (1) out of two (2) households in 1970 (49.3 per cent) for total households in Peninsular Malaysia.

Table 14.1: Selected Economic Indicators for Rural Areas in 1995 and the Mid Term Review of the Seventh Malaysia Plan (MTR 7th MP- 1999)

Indicators	1995	1999
Household income:		
Average income	RM1,307.00	RM1,570.00
Income growth	5.3%	9.6%
Rural/urban net income disparity ratio	1:1.98	1:2.0
Urbanization rate	54.8%	58.8%
Poverty rate	15.3%	10.9%
Hard core poverty	3.7%	2.5%

Infrastructure and Social Amenities

301. The rural infrastructure programmes carried out since Independence have significantly improved living conditions in the rural areas. In 1995, 99 per cent of rural households in Peninsular Malaysia, 65 per cent in Sabah and 67 per cent in Sarawak had access to electricity and 83 per cent of rural households in Peninsular Malaysia and 61per cent of rural households in Sabah and Sarawak had treated water. In addition, the rural population also had metalled roads, which totalled on the average 1.5 kilometres of road for every one square kilometre in 1995.

Profile of the Rural Population

302. The rural population comprises 38.01 per cent of the Malaysian population (*Population Census, 2000*). Women comprise 48.74 per cent of the rural population. The largest cohort group is the 10 to 19 year old group, followed by the 20 to 29 year old group and there is a higher proportion of women in the old age group than men.

303. In terms of the marital status of the Malaysian population 56.91 per cent are not married, 39.64 per cent are married and 3.46 per cent are widowed, divorced or separated. There were 678,757 persons in Malaysia in 2000 who were widowed, 81.0 per cent of whom were women, while there were 125,520 divorcees, 74.89 per cent of whom were women. Although there is no specific data for the rural population, it is estimated that about half of these figures represent the rural population.

Literacy

304. On the whole the literacy rate among rural women has improved from 58.6 per cent in 1980 to 74.0 per cent in 1991. Nevertheless, compared to urban women and men as a whole, the literacy rate among rural women is low. Those who are illiterate are probably in the older cohort group and this will decline with improved educational services.

Table14.2: Literacy Rate, 1970, 1980, 1991,1996 and 2000

Year	*Urban Population (%)*		**Rural Population (%)**	
	Male	**Female**	**Male**	**Female**
1970	78.2	57.7	65.4	42.4
1980	88.0	74.2	76.2	58.6
1991	94.0	86.0	86.0	74.0
1996*	95.0		91.0	
2000	96.1		86.1	

Source: Population Census 1970, 1980, 1991, 2000
**Source: Study Conducted by National Library, Malaysia*

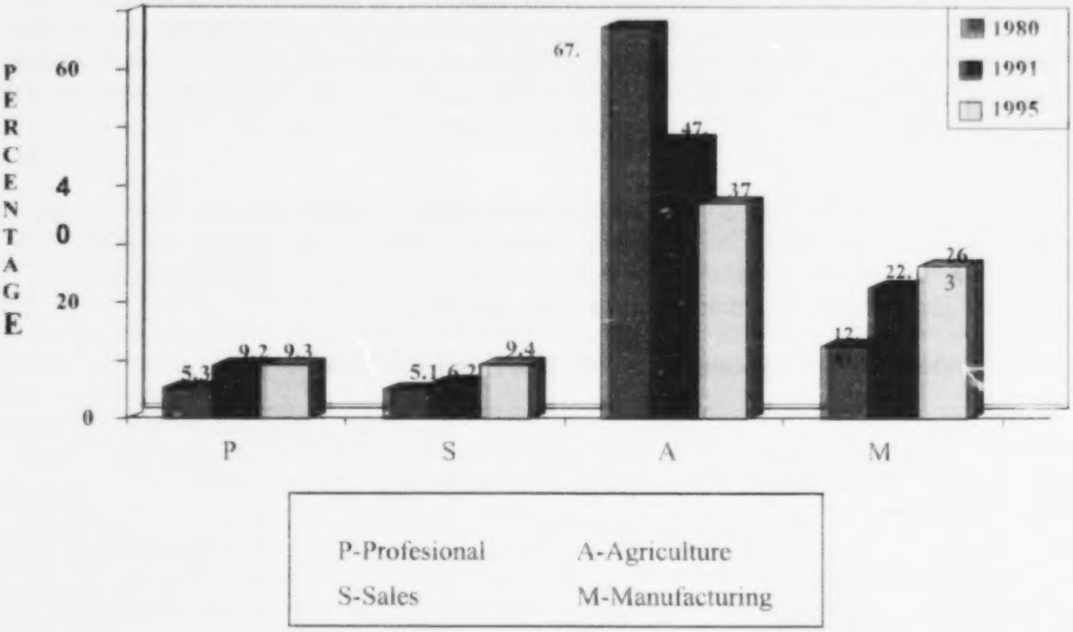
Rural Women in Employment

305. The role of rural women in the economy can be analysed from two perspectives: formal (labour force participation) and non-formal (micro enterprise activities). In 2000, rural women comprised 15.2 per cent of the total labour force and 32.4 per cent of the rural labour force. Rural women represent 10.5 per cent (1,006,100), 2.6 per cent (246,200) and 2.2 per cent (212,400) of the total labour force in Peninsular Malaysia, Sabah and Sarawak respectively in 2000. In terms of the rural labour force they make up 22.3 per cent, 5.4 per cent and 4.7 per cent i.e. figure for Sarawak for Peninsular Malaysia, Sabah and Sarawak respectively.

306. Labour force participation among rural women was 43.8 per cent in 2000, which is slightly lower than the percentage for overall female labour participation. The main reason, given by three quarters of the women not in the labour force, was housework. Research on role performance among rural households indicates that women, whether they are in the labour force

or not are responsible for managing family affairs whereas husbands are free to concentrate on economic activities. Chart 14.1 shows that the majority of the women in the labour force are involved in agriculture-based industries followed by manufacturing, professional services and sales.

Chart 14. 1: Distribution of Rural Females in the Labour Force by Occupation, 1980,1991,and 1995



307. In terms of employment status, 19.0 per cent of rural women in 2000 were working as unpaid family workers while 16.4 per cent were own account workers.

308. Unpaid family workers comprised the highest group amongst rural women. Rural women comprised 69.2 per cent, 68.0 per cent and 61.7 per cent of the total of unpaid family workers in Peninsular Malaysia, Sarawak and Sabah respectively in 2000.

309. In addition to labour force participation, rural women are also active in micro enterprise or other income-generating activities. Data from the Department of Agriculture (DOA) indicates that there are 1,175 micro enterprise projects being carried out by Women Extension Group (KPW) members and that 27 projects have been registered. The Federal Land Development Authority (FELDA) estimates that about 900 women are involved in micro enterprise projects. There are also 81 women beneficiaries from the Entrepreneurship Programme of the Farmers Organization Authority (FOA). In 1997, 214 women entrepreneurs were assisted to develop their projects under FOA's Village Based Human Development Programme.

310. Data from the Rubber Industries Smallholders Development Authority (RISDA) indicates that there are 5,945 Smallholders Women's Group (PWPK) members involved in micro enterprise projects. There are probably many more women currently involved in small enterprises who contribute significantly to the economic standing of their families.

311. Table 14.3 shows the distribution of employed persons in agricultural occupations by sex for 1992 and 1995. Among women working in the agriculture sector, more than half are employed in fruit and related tree and shrub crop farming followed by field crop and vegetable farming. It can be seen that there is a higher participation of women compared to men in field crop and vegetable farming; and that the participation of women in farm machinery operation is minimal. This indicates that women are still involved in occupations, which require fewer skills and a lower level of technological adoption.

Table 14.3: Percentage Distribution of Employed Persons in Selected Agricultural Occupations by Sex in Malaysia 1992 and 1995

Occupation	**1992**		**1995**	
	Male	**Female**	**Male**	**Female**
General plantation farm workers	0.4 (73.2)	0.2 (26.8)	1.4 (70.4)	0 9 (29.6)
Field crop and vegetable farm workers	14.8 (32.7)	36.0 (67.3)	11.4 (33.9)	34.8 (66.1)
Fruit tree and related tree and shrub crop workers	60.7 (54.7)	59.4 (45.3)	65.5 (63.2)	59.8 (36.8)
Poultry farm workers	1.5 (65.5)	0.9 (34.4)	1.3 (72.5)	0.8 (27.5)
Nursery workers and gardeners	14.8 (89.6)	2.0 (10.6)	13.3 (89.9)	2.3 (10.1)
Farm machinery operators	2.8 (99.3)	0.0 (0.7)	2.4 (98.6)	0.1 (1.4)
Agricultural and animal husbandry workers not elsewhere classified	5.0 (92.0)	1.4 (8.0)	4.7 (8.4)	1.2 (11.6)
Total	100	100	100	100

( ) Percentage from total in each occupational category and year.

312. Data on women's role in agriculture in multi-crop farming were available from a study conducted among 180 families in Jelebu, in the state of Negeri Sembilan, in 1990. Women, mostly wives, performed major work and shared responsibilities at all stages of the cultivation of four major crops (paddy, rubber, cocoa and cash crops) from the land preparation stage to the final stage of marketing.

313. Unlike the rice bowl regions of Malaysia, where distinct male and female division of labour in paddy farming prevails, in Jelebu, the sharing of tasks, especially harvesting, threshing,

land transplanting operations and packing was more obvious. Sixty per cent of the female respondents shared harvesting tasks with their husbands while 59 per cent shared threshing work. A substantial proportion of the women respondents, however, performed the nursery seedling preparation, transplanting, weeding, winnowing and drying operations without any help from male relatives while the husbands spent much more time in land preparation and clearing activities. The sharing of tasks between husbands and wives in some paddy cultivation activities was also confirmed by the time utilization data.

314. The same applies to cocoa cultivation, rubber tapping and cash cropping. On the whole, a husband and wife tend to spend almost the same amount of time/do the same work in the early stages of cultivation except for crop maintenance, which is mainly done by women. Most husbands do the marketing, selling, preparation of land, fertilizer application, weeding and pesticide application without their wives. As for cash cropping, which includes the cultivation of bananas, pineapples and sugar cane, the supply of labour comes mostly from family members, including the women. More men undertake the sole responsibility of performing the various tasks involved in cash crop cultivation and production as compared to other crops. In contrast, the women are mostly involved in small scale planting as home production activities. Although there is no obvious discrimination against rural women, efforts should be made to enhance their roles both in the home as well as in the work place. Simple machines, which are women-friendly, should be invented to enhance their roles in the work place.

315. Women are the main contributors to the labour force in the manufacturing and industrial sector. This work necessitates women working on shifts or having odd working hours in factories or industrial areas, which are far from their homes and families.

The Role of Women in Development Planning

316. Rural women's involvement in decision-making at all levels of policy and programme planning is vital to ensure that their needs are being addressed and that they are being given opportunities to be partners in development.

317. Current data indicates that few women are involved in decision making at the district or higher level. Enhancing the participation of women in mainstream development would mean providing greater opportunities and accessibility for them to make decisions, to manage their own resources and to be self-reliant. It has been found that a valuable way for women to accomplish this through involvement with women's groups.

318. In 1994, 250 women's organizations were registered with the Registrar of Societies, 150 of which were quite active. However, a large proportion of these organizations were located in urban areas. Government and semi-government agencies are making efforts to mobilize rural women through women's groups. In 1994, DOA had the highest number of village women's organisations with 1,146 Women Extension Groups (KPW) comprising 32,192 members. FELDA had 324 women's associations comprising 113,000 members.

319. Except in FELDA, rural women's organizations are usually represented only at the village level, thus restricting their ability to examine and represent their needs and issues on a national and global basis. In FELDA, the *Gerakan Persatuan Wanita* (Women's Movement) operates at the scheme (village) level, but has representatives at the area and national level. In

this context one can say that the women in FELDA are getting a better deal as 13 of the rural women leaders have been selected to become Board Members of some of the FELDA Corporations. In addition, more women (15 women and 13 men) are members of the Farmers Consultative Committee.

320. Efforts to commercialise agricultural activities have led to the setting up of co-operatives, farmers' organizations and group farming. However, women's involvement in decision-making in these bodies remains very low. In 1996, women comprised 21 per cent of the membership of the Area Farmers Organization but constituted only 6 per cent of the 2,010 members of the Board of Directors. In addition, the majority of women on the Board of Directors represented members of the Women Farmers' Groups or Co-operatives only. Of the DOA's 3,072 group farming projects in 1997, there was only about 4 per cent of representation of women even though 18 per cent of the farmers were women.

321. In terms of the ways in which women are involved, rural women have the monopoly of leadership in women's only organizations, which are mainly social and welfare-based in nature. As such the scope is limited for women leaders to make decisions pertaining to economic participation, control of resources and planning for mainstream activities especially in the context of village development. Women leaders are generally given the responsibility of preparing foods and drinks at festive occasions and generally miss out on the important information and knowledge needed for effective decision-making.

322. In the political arena, rural women have always been the major supporters of political parties. However, the involvement of rural women in the decision making bodies of the various political parties is minimal compared to their numbers. A vast majority of rural women tend to be followers and not leaders. This can be attributed to the cultural barriers to women's independence and the traditional or stereotypical gender roles in rural communities.

323. One of the emerging issues in Malaysia is the rise in female-headed households. The Population Census of 1991 indicated that 18.2 per cent of rural households in Malaysia were headed by women. A Labour Force survey conducted in 1996 showed that 13.5 per cent of households were female-headed. Although this figure is lower than the 18.2 per cent recorded by the 1991 Population Census, the total number of female-headed households in Malaysia had increased from 607,200 in 1990 to 689,400 in 1996.

324. Female-headed households in the rural areas tend to be in older age group compared to male-headed households, probably because women have longer life expectancy and often outlive their husbands. A study conducted in 1995 among 1,300 female-headed households indicated that two-thirds of the women interviewed were widowed, and this finding was in line with the census data. Men migrating to look for better jobs outside the villages might be another factor that has to led to the increase in the number of female-headed households.

325. To increase participation of rural women at decision-making level, courses and training have been conducted by various agencies such as the Department of Wom n Development, the Ministry of Rural Development and the Department of Agriculture to build the skills or capacity of rural women, improve their access to knowledge, particularly ICT literacy, enhance their motivation and leadership ability. Gender sensitisation courses for policy makers, programme

implementers and community leaders have also been conducted by the Department of Women Development and the Institute of Public Administration (INTAN).

The Health Status of Rural Women

326. The basic health services provided to the rural areas by the health service network are outpatient care for common diseases, maternal and child health care, communicable diseases control, environmental sanitation, dental care, health education and simple laboratory investigations. Rural midwives have been retrained to become community nurses so that they can provide treatment for minor ailments as well as attending to the basic elements of maternal and health care. Health services are also available and accessible to the elderly in remote areas.

327. Achievements have also been made in the provision of health infrastructure. In 1999, the Government health clinics to population ratio was 1:19,524 whilst the Government health clinics to rural population ratio was 1:13,194 and the midwifery clinics/community clinics to rural population ratio was 1:4,758. Campaigns on health awareness are targeting the rural community are conducted by the Government from time to time.

Education and Training for Rural Women

Formal Education

328. School enrolment rates indicate that the access to education in Malaysia has increased. In 1993, the enrolment at primary level was 93.8 per cent and this increased to 95.4 per cent in 1998. Meanwhile at the secondary level, the enrolment increased from 44.5 per cent in 1993 to 79.3 per cent in 1998. On the whole, women's educational level is lower than men's and rural women have slightly lower educational attainments than their urban counterparts.

329. Table 14.5 shows that the number of rural women with no formal schooling has declined and that of people with secondary and tertiary education have increased from 1970 to 1991. Those with no formal schooling are usually in the older cohort groups.

Table 14.5: Distribution of Educational Attainment of Malaysian Population by Gender, 1970,1980 and 1991

Educational Attainment	Urban		Rural	
	Male	Female	Male	Female
1970				
No schooling	25.7	39.5	39.8	55.3
Primary	44.8	40.1	47.6	37.5
Secondary	29.6	20.4	12.6	7.2
Tertiary	-	-	-	-
1980				
No schooling	23.8	32.4	33.7	44.9
Primary	35.1	34.5	42.4	36.8
Secondary	37.9	31.5	23.1	18.0
Tertiary	3.2	1.6	0.7	0.3

1991				
No schooling	21.3	26.6	30.0	38.2
Primary	29.5	29.7	38.8	34.8
Secondary	40.1	36.3	28.1	24.4
Tertiary	9.1	7.4	3.0	2.5

Source: Population Census 1970,1980,1991

330. The Malaysian Government has invested heavily in education. To date, almost 100 per cent of children are enrolled in Standard One (first year of primary school) and boys and girls have equal educational opportunities. Table 14.6 shows the number of children in public school by stratum for 1996, 1997 and 1998. Two-thirds of primary school children in 1998 were in rural schools, and there were more male students compared to female students in primary schools.

Table 14.6: Number of Children in Primary, Secondary School by Gender and Stratum 1996, 1997 and 1998

	1996			1997			1998		
L G	Primary	Lower Sec.	Upper Sec.	Primary	Lower Sec.	Upper Sec	Primary	Lower Sec.	Upper Sec.
U M	508,914	265,026	120,804	529,250	274,077	136,860	529,292	283,220	146,190
U F	483,187	269,121	149,286	499,609	277,420	163,454	502,711	285,378	170,414
R M	951,715	314,839	143,510	948,640	329,986	147,925	946,021	336,285	156,220
R F	903,303	304,849	169,105	901,355	318,351	170,961	893,686	324,968	179,489
T	2,847,119	1,153,835	582,705	2,878,854	1,199,834	619,200	2,871,710	1,229,951	632,313

Source: Ministry of Education

L = Location U= Urban R= Rural
G= Gender M= Male F= Female

331. Female students' enrolment and performance are also better at the tertiary level even though this is not really reflected later in labour force participation. Female participation in the labour force is only 63 per cent compared to male participation, which is 80 per cent. In addition, girls tend to go for more stereotyped courses in schools and in higher education. Therefore, there is a need for reorientation and reconditioning to encourage more girls to take up male-dominated courses although currently the number of girls enrolled in such courses is increasing.

332. The Government has also provided information technology (IT) facilities and education to the rural areas by introducing smart schools and computer classes. The students also acquire a greater knowledge of IT when they further their studies at the tertiary level.

Non Formal Education and Training

333. Various agencies provide skill and capability building services in the rural areas. Basically training programmes, which target rural women, focus on enhancing women's role in homemaking and family life by teaching them skills such as cooking, sewing and caring for children. Some women, however, are able to develop and commercialise their skills by venturing into micro enterprise projects and other such economic activities. Of late, the courses and training programmes for rural women have been diversified to include entrepreneurship, motivation and leadership training, micro enterprise development skills and so on. Religious classes, literacy programmes and family development programmes are mainly targeted at women.

334. Data provided by agencies are not gender disaggregated and hence it is difficult to determine the extent of women's involvement in their training programmes. Agencies are only able to provide the required data when the training has been targeted at women. Data provided by FELCRA Berhad indicate that a total of 2,448 rural women participated in skills, entrepreneurship and motivation and leadership training in 1998. The women participants represented 24 per cent of FELCRA's total trainees. RISDA provided extension services to 590,955 women from 1994 to 1998. They comprised 35 per cent of the RISDA clientele during that period.

335. The Entrepreneur Services Section of the DOA has been very active in providing training to 34,435 members of KPW. More than 15,000 KPW members have attended training at their respective villages or at various agriculture training centres. There are 1,175 KPW members with income generating projects. A total of 19,148 women, representing 43 per cent of the total number of people trained by DOA, participated in food production, food processing, nutrition and motivation management courses in 1996-1997. In addition, RISDA provided a total of 21,815 extension activities to 326,000 participants in 1996, of whom 42 per cent of were women.

336. There are many other agencies that provide services for rural women. KEMAS, the community development division of the Ministry of Rural Development, is responsible for providing training and leadership in family development. This agency provides vocational training and preschool teacher training as well as training on family well-being and functional literacy. The Penang Regional Development Authority (PERDA) and the South East Johore Development Authority (KEJORA) are some of the other agencies, which have conducted training programmes to increase the knowledge and skills of rural families. In addition, village libraries have also been established to cater for the educational and information needs of the rural population.

337. Although various skill-building courses are provided by Government agencies, women often find themselves unable to benefit fully from such courses because of their domestic responsibilities. Studies conducted in 1991 among women in Jelebu, indicate that agriculture technology transfer was minimal when husbands attended trainings where women were supposed to be the target group and were the ones to undertake the work on the farm. As the courses were conducted far from the home locality of many women and were of long duration, many women were unable to attend the courses because of their family responsibilities. Therefore, it is

imperative that the courses be adjusted to accommodate rural women's needs in terms of the modules, training contents and logistics.

338. The overall educational attainment of rural women, especially in the fields of technology, entrepreneurship, motivation and leadership, is still low and this limits their ability to gain greater access to productive resources or to compete in the market for better opportunities. The type of training available to them is based more on basic skills, knowledge of field activities and on community development and there is very little in the way of specialized courses on areas such as entrepreneurship. As such, the majority of rural women are involved in lowly paid and time-consuming field activities even though qualified trained extension workers in human resource development are provided by KEMAS, the DOA and FELCRA.

Rural Women's Accessibility to Productive Resources

Access to Credit and Micro Credit

339. For rural women, accessibility to productive resources such as credit quite often depends on their income level. Under poverty eradication programmes, hardcore poor women especially those on the Government's Hardcore Poor List have better access to credit than those from non-poor households. Poor rural women have also been the target group of most micro credit programmes set up by NGOs since they have proven themselves bankable. There are so far 64,382 micro credit recipients under programmes run by bodies such as the Amanah Ikhtiar Malaysia, Yayasan Usaha Maju (The Development Foundation) and the Yayasan Pembangunan Terengganu (Terengganu Development Foundation). The amount of credit provided is RM272.9 million.

340. As for rural women who are not classed as hardcore poor, they have access to credit facilities provided by some government agencies. For example, the Farmers Organisation Authority (FOA) provides credit for farming, household items and also for the farmers' children's education. RISDA under its Social Economic Development Fund also provides credit for income-generating projects. In addition, two states in Peninsular Malaysia have started giving more credit to rural women for the purpose of scaling-up their businesses under the states' DOA. More states are expected to follow suit in the near future.

Marketing Facilities

341. One of the main concerns of women who are involved in a micro enterprise is the limited marketing for their products. Efforts are being made by various departments such as the DOA and the Federal Agriculture Marketing Authority (FAMA) to facilitate the marketing of rural women's products. The products of KPW members are being marketed locally under the brand name 'WANIS' while some food products (e.g. roselle) are for both the domestic and international market.

342. A total of 940 collection centres have been established to provide packaging and distribution channels for KPW members through the direct selling concept. RISDA and FOA market their women members' products through their co-operatives. FAMA mini markets and farmers' markets as well as the FOA's farmers' markets facilitate the selling of fresh and processed products. A group of women in Pontian have formed a company to market their

products under the brand name of 'MADUMAS'. In addition, women's groups under various other agencies are being given the opportunity to display and sell their products at exhibitions.

Access to Technology

343. Although mechanisation of farm activities helps to improve productivity but in some cases it displaces women. In the rice-farming area of Kedah, mechanisation has taken over the role of women in transplanting and harvesting. In cocoa processing, the splitting of cocoa pods is mainly done by women. Most machines are not women friendly and were not developed with lessening the drudgery of women's work in mind. Therefore, to ensure that women are not displaced due to new technologies and machineries, the Farm Family Development Unit of DOA has started providing appropriate machines to women micro entrepreneurs to enable them to increase their production. KPW members who are involved in micro enterprises and are in need of machinery to expand their production are also eligible for such support. In addition, rural women entrepreneurs are also given advice and guidance on how to scale-up their projects. The Rural Economy Division of the Ministry of Rural Development provides subsidies to purchase machines for rural industries on a part loan (70:30) scheme so that rural women can afford to own machines or immediate level technology to assist them in product processing and the up scaling of their enterprises. In 2001, 17 women benefited from the Rural Economic Funding Scheme as opposed to 59 men.

Land

344. Rural women in Malaysia have the right to own and inherit land. Muslim women are eligible to inherit land based on Syariah law. With the amendment of the Land (Group Settlement Areas) Act, a wife or ex-wife is entitled to co-own the developed land under the FELDA scheme.

345. Data from the 1992 Smallholder Census indicates that there were 420,193 rubber smallholders in that year. 30.5 per cent were female smallholders with an average holding of 1.65 hectares as compared to male smallholders with 2.02 hectares. The census also shows that 13.6 per cent of females were categorized as hardcore poor compared to only 10.9 per cent of males. Uneconomic size of holdings, especially in rubber, is one of the main factors contributing to the low income of both male and female rubber smallholders. To overcome this problem, RISDA has embarked on the RISDA Estate Programme whereby uneconomic-sized rubber holdings are managed on an estate basis to boost higher productivity and to provide income to smallholders on a monthly basis as well as wages, if they are recruited as workers.

Rural Women's Involvement in Self-help Groups/Co-operatives/Community Development

Self-help Groups and Co-operatives

346. Through the women' sections of various agencies such as KPW (DOA) or PWPK (RISDA), women have been organized to form self-help groups. Although at the initial stage the focus was mainly on social activities, several groups have since successfully ventured into economic activities. The KPW recorded total sales of RM14.5 million in 1996 while the PWPK recorded total sales of RM1.2 million in the same year. Meanwhile, women under the FOA have

been able to organize themselves to form co-operatives, and they have been actively involved in economic projects.

*Table 14.7: Number of Women's Self-Help Groups under Various Agencies**

Agency	**Group**	**No. of Branches/Groups**	**No. of Members**
Department of Agriculture (DOA)	KPW	1,202	34,435
Federal Land Consolidation And Reclamation Authority (FELCRA)	WADIRA	1,111	10,592
Rubber Industries Smallholders Development Authority (RISDA)	PWPK	660	16,470
Fisheries Development Authority (FDA)	KUNITA	78	3,223

** Data furnished by agencies.*

347. A co-operative is an organisation, which has more than 100 members. The large membership is not necessarily a problem provided that the administration and management of the co-operative is refined and well managed. Refinement of co-operative mechanism is essential to make it work at the sublevel in the districts and to align it to the state levels. In 1997 there were 21 co-operatives in the form of 14 women's co-operatives (2,149 members), four village co-operatives (368 members) and three multi-purpose co-operative with 459 members. The share value of these co-operatives was RM491,415.00.

348. In general, rural women's activities tend to be informal and socially based. Although the co-operative movement has been in existence in the rural areas since Independence, rural women's involvement in co-operative activities has been minimal. In 1996, only 8,723 out of 13,574 PWPK members were members of Rubber Smallholders Co-operatives. The Federal Land Consolidation And Reclamation Authority (FELCRA) has set up 147 co-operatives with almost 30,000 members including 1,617 Board Members. However, there are only 30 women Board Members in 17 co-operatives. Where women do join co-operatives, they usually function only as members and are not involved in decision-making.

Community Development

349. Rural women play an active role in community activities especially welfare and social oriented activities. Rural feasts, weddings and gatherings are affordable due to the voluntary services rendered by the men and women in rural areas. Women contribute significantly to community maintenance – for example, nurturing families and caring for the ill are tasks, which fall almost entirely on women's shoulders. However, often they have no support systems or training in necessary skills to help them cope and thus suffer stress.

Support Services for Rural Women

350. Women's involvement in the labour force and other activities outside the home do not free them from their responsibilities in the domestic sphere. Though women are now helping their husbands earn money, their husbands' participation in domestic activities remains very low. As such, women have to play a triple role, as mothers and wives in the home, as career women and productive labour in the labour market and as participants in community activities when required.

351. Childcare is one of the key issues facing working women. The Terengganu Family Development Foundation has established day-care services at a minimal price to help dual worker families. FELDA has been very proactive in initiating fathering programmes in an effort to involve fathers in the development of their families. In addition, FELDA has established community support to lighten the burden of women who work outside the home by encouraging the establishment of home-based day-care. There were 300 home-based day-care providers caring for 960 children in FELDA in 1997.

Living Conditions of Rural Women

Living Conditions

352. Hardcore poor households in rural areas are the target group of the Hardcore Poverty Programme in Malaysia. One of the aims of the above-mentioned programme is to improve the living conditions of the poor through the provision of a housing subsidy. In addition, there are also programmes such as the free textbook programmes, a school uniform subsidy, a quality food subsidy for pre-schoolers, scholarships as well as human development courses to improve the living conditions and status of the hardcore poor and their families. Families involved in land settlement schemes under land development agencies such as FELDA, FELCRA and RISDA are also provided with house units, the cost of which the beneficiaries repay from the sales of their produce.

353. It is necessary to lessen the drudgery of housework and to enable women to be involved in economic activities. Piped water and electricity provide relief for women and shorten the time spent in doing household chores and managing the home. The time saved can be utilized to generate income for the family. A study conducted by Kumi *et al* (1996)[6] indicates that almost all respondents in the study owned televisions, radios, refrigerators, washing machines and gas stoves. Rural areas in Malaysia generally enjoy good living conditions as is evident in the Housing Census of 1991 which revealed that about three-quarters of the respondents owned household appliances; that is television sets (69 per cent), refrigerators (42 per cent), washing machines (19 per cent) and radios/hi-fis (70 per cent). Car and motorcycle ownership increased from 12 per cent and 32 per cent respectively in 1980 to 18 per cent and 50 per cent in 1991.

Conclusion

354. This report has attempted to assess the status of rural women within the context of CEDAW. Lack of available up-to-date data on the participation of women, especially in

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[6] Kumi Y, Husna S. and Wong F.Y. (1996) *Farm Management Development and Transformation under Commercialization in Malaysia*. UPM/JIRCAS Collaborative Study Report, 1993 – 1996, University Pertanian Malaysia

agriculture, makes it difficult to determine the position of women in that sector. Several agencies are responsible for the development of the rural areas, and concerted efforts among all agencies serving rural communities is recommended to achieve the objective of empowering rural women. In addition, gender sensitisation at all levels should be intensified to remove stereotypical assumptions of the role of women by policy makers, programme implementers, community leaders as well as the women themselves so that rural women can fulfil their potential.

ARTICLE 15

EQUALITY BEFORE THE LAW AND IN CIVIL MATTERS

Introduction

355. The principle of equality before the law is well enshrined in Article 8 of the Federal Constitution as mentioned earlier. It is the basic principle that all persons regardless of gender shall be afforded equal protection of the law in Malaysia.

Contractual and Other Legal Capacity

356. In Malaysia, women may enter into any type of contractual relationship, whether in relation to commercial or non-commercial activities. The governing law on contractual relationship is the Contracts Act 1950 (Act 319). In this Act, for the contract to be valid, the contract should be entered into by a competent person who has given free consent, for a lawful consideration in relation to a lawful object. A competent person is further defined as a person who has attained the age of majority and who is of sound mind and not disqualified by any law from contracting. For purposes of making a contract, a person of sound mind is one who is able of comprehending the contract and forming a rational judgment as to its effect upon his interest.

357. These provisions show that the capability and validity of a contract is based on the willingness of parties to do or not to do a certain act, and that the gender of the parties to the contract does not come into play. Hence there is no room for sexual discrimination. In fact, a married woman does not need to obtain the consent of her husband before entering into a contract.

358. In a specific commercial transaction, for instance, in relation to hire purchase of goods, the terminology used in the law regulating such transaction, in this case, the Hire Purchase Act 1967 (Act 212), is neutral. The definitions of 'owner'and 'hirer' make no distinction on the basis of gender. The Hire-Purchase Act 1967 also provides protection and redress to hirers on a general basis, regardless of the sex of the hirer or the owner. Based on this, a woman can enter into a hire-purchase agreement or any contract in so far as she fulfils the criteria, laid down by the statutes.

359. The legal status, rights and obligations of married women are further guaranteed and governed by the Married Women Act 1957 (Act 450). In this regard, married women are *feme sole*[7] under the law, in that they are capable of rendering themselves and being rendered liable in respect of any tort, contract, debtor obligation and of suing and being sued in their own names.

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[7] *Feme sole* are defined in Black's Law Dictionary, (1990), 6th Edition as "single women, including those who have been married, but whose marriage has been dissolved by death or divorced, and for most purposes , those women who are judicially separated from their husbands."

360. A married woman is also liable for any debt and contracts entered into, and for any wrong doing, prior to her marriage. She can be appointed as an executrix or administrator, alone or jointly, of the estate of any deceased person and may sue and be sued without her husband.

Ownership and Administration of Property

361. Article 13 of the Federal Constitution states that no person shall be deprived of property unless it is in accordance with law. In practice, a daughter or any female descendant in a family is entitled to property. Regarding the ownership of real estate, for instance, land, house and apartments ownership is based on the concept of registration, which is a prominent feature of a torrent system. The legal concept is based on the indefeasibility of title and interest, hence if the registered document is made in the name of a woman, then she is the legal owner.

362. In the management and administration of property, the statute applicable is the Probate and Administration Act 1959 (Act 97). Again, the Act does not make a distinction on the grounds of gender for the purposes of administering estate of a deceased person. In so far as making wills is concerned, the Wills Act 1959 (Act 346) provides that a will shall be made by a testator who is of sound mind in relation to the disposal of and bequest of his or her property.

363. In relation to probate, a woman may be appointed as an executor and there is no law prohibiting such appointment. The High Courts in Malaysia have been granting probate and issuing letters of administration to any persons entitled under the will irrespective of gender. In this regard, a woman can in all instances be an administrator or executrix of any estate.

364. In the administration of property, Malaysian law recognises the right of a man and a woman to hold separate properties even if they are married to each other. In the event that a property is acquired during the course and subsistence of a marriage then the law recognises the right of woman to claim such matrimonial asset. Thus, in the event of dissolution of marriage the woman has the right to claim certain percentage of the jointly acquired property as well as the right to claim her matrimonial property.

365. In Malaysia a married woman can even have protection and redress over her property against her own husband.

Legal Proceedings

366. The judicial system in Malaysia treats men and women equally. Both men and women have equal access to the judicial system. Any person, regardless of gender, can be a witness in court and can testify as long as he or she possesses a sound mind and rational understanding of the questions put to him or her. The testimony of men and women is treated equally and the acceptability is based on the credibility of the witness and relevance of the testimony rather than on the gender of the witness.

367. For the initiation of any legal proceeding, men and women can sue and be sued in their own names. A woman is also entitled to all remedies and redress available in law in all respects. There is no disparity in awarding damages between a man and a woman in comparable circumstances.

Legal Profession

368. In Malaysia, the admissibility of a person to the court is governed by the Legal Profession Act 1976 (Act 166), the Sarawak Advocates Ordinance and the Sabah Advocates Ordinance which provides the procedure for a qualified person to be admitted to the respective Bars in Malaya, Sabah and Sarawak.

369. In Peninsular Malaysia (under the jurisdiction of the High Court of Malaya) a qualified person is defined as one who has passed the final examinations leading to the degree of Bachelor of Laws of the University of Malaya, the University of Malaya in Singapore, the University of Singapore or the National University of Singapore; or is a barrister-in-law of England; or is in possession of such other qualification as may by notification in the Gazette be declared by the Board to be sufficient to make a person a qualified person for the purposes of this Act. In such instance, if a woman fulfils the above requirements then she will be deemed a qualified person and be admitted as an advocate and solicitor. Currently there are 3,189 women lawyers practicing in West Malaysia.[8]

370. With regards to the judiciary, there are currently five Judicial Commissioner as compared to 16 male Judicial Commissioner and three women judges in the High Court as compared to 36 male judges. In the Federal Court, there are two women compared to six men

371. Within the legal service, some senior posts are being held by women. The current Solicitor General is the second woman to be appointed to that esteemed position.

Women's Access to Legal Representation

372. Women are granted equal access to legal representation. Women who have the means to engage counsel have a free choice in their selection of counsel. For those who cannot afford it, the government has set up the Malaysian Legal Aid Bureau under the auspices of the Prime Minister's Department to provide and facilitate legal aid to any person who is a resident and present in Malaysia, regardless of their sex. The Legal Aid Bureau's data indicate that 70% of its clients comprise women, and the main area of its work is in relation to matrimonial matters.

Domicile Matters

373. The principles on domicile in Malaysia come from the common law of England. Under Section 3(1) of the Civil Law Act 1956 (Act 67), it is stated that in the absence of any applicable law in Malaysia the common law and the rules of equity as administered in England shall be applicable subject to the local customs and beliefs. Under this section, the Court shall in West Malaysia or any part thereof, apply the common law of England and the rules of equity as administered or in force in England on the 7th day of April 1956, in Sabah apply the common law of England and the rules of equity as administered or in force in England on 1st day of December 1949 and in Sarawak apply the common law of England and the rules of equity as administered or in force in England on the 12th day of December 1949. The principles of domicile are a set of principles established to subject an individual to a particular jurisdiction.

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[8] Data obtained through the courtesy of the Malaysian Bar Council as per 24th March 1999.

374. The meaning of domicile is not statutorily provided for either in the Law Reform Marriage & Divorce Act 1976 (Act 164) nor the Interpretation Act 1976 (Act 388); hence the principles propounded in English case laws are applicable. In this regard, there are three categories of domicile, namely domicile of origin, domicile of choice and matrimonial domicile. A domicile of origin is attributed to every individual and this will prevail until a domicile of choice is determined. In order for a person to change his or her domicile from the domicile of origin to that of choice, he or she must manifest his or her intention of making that change by taking some positive steps towards it.

375. Matrimonial domicile is applicable to a married woman and the children of such marriage. Following English case law, in Malaysia, a married woman acquires the domicile of her husband upon marriage to him. A legitimate child will acquire the domicile of the father and for an illegitimate child that of the mother. The matrimonial domicile of a married woman ceases once the marriage has broken down and her domicile of origin will apply.

Freedom of Movement and Residence

376. Article 9(2) of the Federal Constitution provides that every citizen has the right to move freely throughout the Federation and to reside in any part thereof.

Other Criminal Matters

Arrest

377. The criminal procedure in Malaysia takes into consideration the protection of women's integrity and well-being. For example, the Criminal Procedure Code provides that "whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency."[9] Further, the Criminal Procedure Code also provides that the Court has the discretion to release on bail a woman who has been charged of an offence for which the punishment is death or imprisonment for life.

Sentencing

378. In terms of sentencing, there are two circumstances in which women are treated differently from men: i) a sentence of whipping is prohibited from being carried out on women and ii)a sentence of death shall be commuted to life imprisonment if the woman convicted of an offence punishable with death is pregnant. Apart from these situations, women and men are sentenced similarly in comparable circumstances.

Special Defences

379. There are no legal concepts such as special defences which apply to women only. The general defences under general criminal law such as mistake of fact, intoxication and private defence are available to men and women alike.

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[9] Section 19 of the Criminal Procedure Code.

ARTICLE 16

EQUALITY IN MARRIAGE AND FAMILY LAW

Introduction

380. In Malaysia, family law matters are governed by a combination of Civil, *Syariah* (Islamic laws) and *Adat* (customary) laws. The concept of women's equality in Malaysia is based on the culture and traditional beliefs of its various ethnic groups with the influence of religious values. As such, there is little room for negotiation or deviation from the normal norms or practices. In most cultural practices of the ethnic groups in Malaysia, the concept of family includes also the extended families of the respective husband and wife. Thus, this affects the autonomy and decision-making powers in a family particularly decisions pertaining to woman issues as well as the rights of a wife. For instance, in all cultures in Malaysia, a wife is expected to obey her husband who includes the husband's family and to behave according to their wishes.

381. In this chapter, Muslim and non-Muslim family law matters will be discussed side by side to reflect the different provisions of laws and practices applicable thereto.

382. Under the Federal Constitution, Islam falls under the purview of the State and thus, the power to enact legislation pertaining to Islam and Muslim well-being fall under the State authority. Each State, therefore, has its own set of Islamic laws as well as its own Islamic Court system.

383. In terms of family law for Muslims the basic principle is almost the same with other states within the Federation with slight differences in the wordings and practices as well as implementation. Therefore, the Islamic Family Law (Federal Territories) Act 1984 (IFLA) will be mentioned specifically in this report wherever there is a reference to such legal provisions besides comparing it with the other State Enactments (laws that are passed by State Authorities) whenever necessary.

384. With regard to non-Muslims, the Law Reform (Marriage and Divorce) Act (LRA) 1976, will be applicable. The LRA was passed due to the proposal made by a Royal Commission that was set up in 1970 to review and propose reforms on laws governing non-Muslim marriage and divorces in Malaysia. Thus, the LRA has been described as:

> "An Act which seek to lay down a uniform law on marriage and divorce and matters incidental thereto, applicable to all non-Muslim residents in Malaysia, as well as to all citizens of or domiciled in Malaysia residing abroad."

385. Such law is necessary to replace the heterogeneous personal laws, which were in force prior to the passing of the LRA. The primary virtue of the reforms is certainty replacing doubts regarding the true legal status of women cohabiting with men under circumstances, which may or may not be legal wedlock until the question is determined by the Courts; and clarifying the legal status of their issues.[10]

386. After the LRA came into force in 1982, there has been more certainty regarding laws on non-Muslim marriage and divorce. With this new law, only marriages that are registered under

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[10] Ahmad Ibrahim, 1998. *Family Law In Malaysia and Singapore*, 3rd edn., Malayan Law Journal

the LRA are officially recognized. However marriages solemnized under any law, religion, custom or usage before the date of the LRA's coming into force (1st March 1982) are still considered valid and are deemed to be registered under the LRA.

Betrothal

387. For non-Muslims, there is no statutory provision relating to betrothal in Malaysia and breaches of contracts to marry are dealt with under the Contracts Act. In Malaysia, a breach of promise is recognised by law as a valid cause of action, thus indirectly protecting women from empty promises made by men.

388. As for Muslims, betrothal is governed by the relevant Islamic Family Law Enactment of the respective States within the Federation. The IFLA by virtue of Section 15 for instance, provides that:

> "If any person has either orally, or in writing, and either personally or through an intermediary, entered into a betrothal in accordance with *Hukum Syarak*[11], and subsequently refuses without lawful reason to marry the other party, the other party being willing to marry, the party in default shall be liable to return the betrothal gifts, if any, or the value thereof and to pay whatever moneys have been expended in good faith by or for the other party in preparation for the marriage, and the same may be recovered by action in court."

389. Thus, it is clear that from this provision both gender may seek the right to sue for breach of promise to marry.

Equality as to Marriage

The Free Consent of the Parties

390. Women have the same freedom as men to choose their spouses. Under the LRA (section 22(6)), the Registrar of Marriage must be satisfied that both parties freely consent to the marriage before solemnizing the marriage. It is an offence for a person to use force or threats to compel a person to marry against his or her will or to prevent a person who has attained the age of 21 from contracting a valid marriage. Invalidity of consent is also a ground for voidable marriage.

391. The Muslims in Malaysia enjoy the same principles. Section 13 of IFLA states that a marriage shall not be recognized or registered under this Act unless both parties freely consent to the marriage and either the *Wali* (the woman's guardian for marriage) or in the absence of *Wali* the *Syariah* Judge has also consented.

392. Using force or threat to compel a woman to marry against her will or to prevent her from contracting a valid marriage once she attained the age of 16 is an offence punishable with fine or imprisonment. This provision clearly gives women the freedom to choose their own spouses. In Malaysian society, forced marriage is not an accepted practice. From the Islamic point of view, the right of women to marry must be protected in order to secure justice in the intended marriage.

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[11] Islamic Law according to any recognized school of Islamic thought

393. Further, Muslim women were accorded the right to choose husband of the same standing (*kufu'*) as her. The rationale for *kufu'* is to ensure compatibility and suitability between the parties and consequently to avoid problems in the intended marriage. *Kufu'* involves matters such as morality, education, religion, race and standing in society. Thus, when a woman is forced to marry a man of inferior *kufu'* to her by her *wali mujbir* (her father or paternal grandfather), she may reject or ask for the marriage to be annulled.

Application to Marry

394. Under the LRA, marriage for non-Muslims shall be solemnized by a Registrar in his office or in such place other than in the office of a Registrar authorised by a valid license issued by the Chief Minister, or through religious ceremony, customs or usage by any clergyman or minister or priest of any church or temple, appointed by the Minister to act as Assistant Registrar of Marriages.

395. For the solemnisation of a civil marriage performed in the office of a Registrar of elsewhere, each of the parties to an intended marriage shall sign and give a notice in the prescribed form in person to the Registrar of Marriage in the district in which such party has been resident for the period of seven days immediately preceding the giving of such notice. (Section 14 of the LRA). The registrar will publicise the notice by posting a copy in a conspicuous place in his office. This notice will be posted up until he grants his certificate for marriage, 21 days from the date of publication.

396. For the solemnisation of marriage through religious ceremony, customs or usage, the Assistant Registrar must be satisfied by statutory declaration that–

a) either each of the parties is 21 years of age or over, or, if not, is a widower or widow; or if either party is a minor who has not previously married and the female party is not under the age of 16 years, that the consent of the appropriate person has been given in writing, or been dispensed with or has been given by a court;

b) there is no lawful impediment to the marriage;

c) neither of the parties to the intended marriage is married; and

d) if the marriage is a Christian marriage the provisions of the canons of such religious denomination have been complied or lawfully dispensed with.

397. As for Muslims, Section 16 of IFLA states that 'wherever it is desired to solemnize a marriage in the Federal Territory, each of the parties to the intended marriage shall apply in the prescribed form for permission to marry to the Registrar for the *kariah masjid* (area) in which the woman is resident.'

398. In the prescribed form, the intended bridegroom must supply details such as his status, occupation and salary, which must be confirmed by his employer. Women are protected from marrying men who misrepresent themselves as Section 38 of IFLA states that any person who intentionally makes any false declaration or statement in order to procure a marriage is guilty of an offence and shall be punished with a fine not exceeding RM1,000 or with imprisonment not exceeding six months or both.

Age at First Marriage

399. Under the general law (which applies to Muslim and non-Muslims alike), the age of majority for both males and females is 18 years old. However, this law is subject to any other law which fixes the age of majority in specific situations, for example in relation to the capacity of a person to act in marriage, divorce, adoption, religion and so on.

400. The minimum age for marriage under the LRA is 18 years. However, females who have reached the age of 16 may marry if prior permission from the Chief Minister of the relevant State has been obtained. The Chief Minister may then issue a license under the LRA for this purpose.

401. For Muslims, both males and females are also bound by the limitation of minimum age of marriage. Section 8 of IFLA states that "no marriage may be solemnized or registered under this Act where either the man is under the age of 18 or the woman is under the age of 16 except where the *Syariah* Judge has granted his permission in writing in certain circumstances."

402. With respect to Article 16.1(a) and paragraph 2, the Government of Malaysia declares that under the Syariah Law and the laws of Malaysia, the age limit for marriage for women is sixteen and men is eighteen.

Polygamy

403. The LRA prohibits polygamy although it recognises all polygamous marriages that had been solemnized before it came into force. The prohibition against polygamy extends beyond marriages contracted under the LRA to any marriage with any person under any law, religion, custom or usage, whether the second and subsequent marriages occurred in Malaysia or outside Malaysia. However, Muslim men in Malaysia are not affected by this prohibition as polygamy is allowed under the Islamic laws in the country.

404. Under the LRA, if any man lawfully married under any law, religion, custom or usage contracts another union with any other woman during the continuance of this marriage, such woman shall have no right of succession or inheritance should he die intestate[12]. Nothing, however, shall affect his liability to pay for the maintenance of such woman as may be directed to be paid by him under the LRA or any other written law[13]. Indirectly, this provision seeks to protect women who are married secretly according to Chinese custom, and their children. Although a woman who does this is not legally the man's wife, their children, although illegitimate in the eyes of law, are entitled to maintenance.

405. Although polygamy is permitted for the Muslims, the Government has introduced laws and procedures in order to control the practices of polygamy. The main reason for the introduction of the laws and procedures is to ensure equality treatment to all the wives in a polygamous marriage. Therefore, the right to practice polygamy may only be exercised with the court permission. The court will only grant permission if it is satisfied that the proposed marriage is just and necessary, having regard to such circumstances as sterility, physical infirmity, physical unfitness for conjugal relations, wilful avoidance of an order for restitution of conjugal rights or insanity on the part of the existing wife or wives.

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[12] Section 6(1)

[13] Section 6(3)

406. The court must be also be satisfied that the man will be able to support all his wives and dependents, and that he will be able to treat them equally and such intended marriage will not cause harm to the present wife/s.

Rights of Women in Marriage

407. Both civil and Islamic legal systems accord certain rights to wives, the most important ones of which are described below:

Right To Dowry (Mahr)

408. This right is applicable to Muslims. The dowry, known by the Arabic term *mahr*, is an obligatory marriage payment due under Islamic law from the husband to the wife at the time the marriage is solemnized. The dowry can either be in the form of money or property.

409. The ***mahr*** is payable not to the bride's father but to the bride. If the amount of the ***mahr*** is not agreed between the parties, the amount specified in the State Enactment will apply. In order for the ***mahr*** to take a form other than cash, the bride must give her consent, failing which the object would be considered a gift rather than *mahr*. The IFLA provides that the value of the ***mahr*** will be recorded in the marriage certificate so that the wife can claim it in the event of dissolution of marriage.

Rights To Maintenance

410. Under both civil and Islamic law, a husband is legally bound to maintain his wife. A married woman who possesses means of her own is under no obligation to pay towards the upkeep of the household although many married women with independent means do so.

411. Under the LRA, the Court has the power to order a man to pay maintenance to his wife or former wife (section 77(1)) and also for the maintenance of his child (section 93(1)). The Court also has the power to set aside and prevent dispositions intended to defeat claims to maintenance.

412. The IFLA holds that it is the duty of a husband to maintain his wife during the subsistence of the marriage. The court can order the husband to pay maintenance to his wife according to the Islamic law. Under the IFLA, the amount of maintenance due to the wife is determined by the court with regard to her means and needs. An order for maintenance expires on the death of the person against whom or in whose favour the order was made, which ever is the earlier.

413. The Act also provides for interim maintenance for women who have been divorced and left without maintenance. In addition, a divorced woman is entitled to stay in the marital home for so long as the husband is not able to get other suitable accommodation for her except in certain situations e.g. the woman has remarried or the period of guardianship of the children has expired or the woman has been guilty of open lewdness.

The Wife's Right to Retain Her Name

414. Generally in Malaysia, women retain their own names after marriage. Although among some ethnic groups it is customary for wives to adopt their husband's family name after marriage, there is no legal requirement for them to do so.

415. The Government of Malaysia, however, made a reservation on Article 16.1(g) with regard to the same personal rights as husband and wife which is incompatible with the principle of the *Syariah* law.

Jurisdiction in Relation to Matrimonial Cause

416. The civil court has jurisdiction to grant a decree of divorce in situations where

a) the marriage has been registered or is deemed to be registered under the LRA;

b) the marriage was contracted under a law providing that or in contemplation of which marriage is monogamous; and

c) the domicile of the parties to the marriage at the time when the petition is presented in Malaysia.

417. Nowhere in the LRA are the two terms 'domicile' and 'resident' defined. There is also no specific statute or statutory provision governing the two concepts hence the principles propounded in English case laws as stated in paragraph 15.7 under Article 15 are applicable. Part VI of the LRA provides that the court shall in all suits and proceeding under the Act give relief on principles which in the opinion of the court are as nearly as may be conformable to the principles on which the High Court of Justice in England acts and gives relief in matrimonial proceedings.

418. Section 49 (1) of the LRA further provides that the court shall have jurisdiction to entertain proceedings by a wife, although the husband is not domiciled or resident in Malaysia if:

a) the wife has been deserted by the husband;

b) the husband has been deported from Malaysia under any law for the time being in force relating to the deportation of persons, and the husband was before the desertion or deportation domiciled in Malaysia; or

c) the wife is resident in Malaysia and has been ordinarily resident in Malaysia for a period of two years immediately preceding the commencement of the proceedings.

419. Under the Islamic Family Law Enactments of all states the *Syariah Court* can make an order relating to divorce by allowing a husband to pronounce a *talaq* (repudiation of marriage). A woman may also petition to court for ***fasakh, khuluq*** and ***taqliq*** which has the effect of dissolving the marriage. The court after hearing the application may order the husband to pronounce *talaq*.

Divorce

Non-Muslim Divorce

420. The LRA requires that all divorces be registered. The various stages of the process of divorce generally do not discriminate women.

421. The LRA provides that couples may seek a divorce and determine the terms of the divorce by mutual consent. In such cases, the court may make a decree of divorce upon being satisfied that, *inter alia*, proper provision is made for the wife and the children. Judges usually

do not intervene in mutual consent divorces unless it appears that the provision made for the children's maintenance is insufficient.

422. Divorce can also be obtained on the grounds that the marriage has irretrievably broken down. Generally, the courts will accept that the marriage has broken down in any of these situations:

a) The respondent has committed adultery and the petitioner finds it intolerable to live with him/her;

b) The respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with him/her;

c) The respondent has deserted the petitioner for a continuous period of at least two years immediately preceding the presentation of the petition;

d) The parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition.

Muslim Divorce

423. Divorce among Muslims in Malaysia must be pronounced in court. Section 47 of the IFLA provides that whoever desire divorce shall file in an application for divorce to the Syariah Court. It is an offence under the IFLA if the divorce is pronounced outside court.

424. However, if the *talaq* is pronounced outside the court, the parties may still refer the matter to court for verification to the termination of the marriage. In Malaysia, a Muslim wife can divorce her husband on grounds based on the prescribed *ta'lik* (a promise expressed by the husband after solemnisation of marriage), on grounds of failure to maintain the wife or on the ground of the absence of the husband for more than four months and on the ground of violence against the wife.

425. A woman may also petition to court for *fasakh or khuluq* which has the effect of dissolving the marriage. The court after hearing the application may order the husband to pronounce *talaq*.

426. Under the IFLA, if the husband wishes to *ruju'* (resume conjugal relationship) with his divorced wife, the recohabitation must take place by mutual consent and without force.

Ancillary Matters Relating to Divorce

Non-Muslims

Maintenance

427. The LRA allows the court to order a man to make maintenance payments to his wife or former wife during the course of any matrimonial proceedings, when granting or subsequent to the granting of a decree of divorce or judicial separation and if, after a decree declaring her presumed to be dead, she is found alive.

428. The corresponding power to order a wife to pay maintenance to her husband or former husband arises only in very limited circumstances i.e. if he is wholly or partially incapacitated

from earning a livelihood by reason of mental or physical injury or ill-health and the court is satisfied that it is reasonable to order the wife to maintain him.

In determining the amount of maintenance money to be paid by a man to his wife or former wife or by a woman to her husband or former husband, the court bases its assessment primarily on the means and needs of the parties, regardless of the proportion the payment bears to the income of the husband or wife as the case may be. The degree of responsibility which the court apportions to each party for the breakdown of the marriage will have some bearing on its decision (Section 78).

Matrimonial Assets

429. Upon dissolution of marriage, both parties have equal rights to claim for the division of the matrimonial assets (assets acquired during the marriage by both parties or by the sole effort of one party) or for the proceeds of the sale of any such assets. In the case of assets acquired by one party to the marriage, the court will take into consideration, *inter alia*, the extent of the contributions made by the other party to the welfare of the family. The needs of children who are minors are also of paramount importance.

Acts of Molestation

430. During matrimonial proceedings or when a decree of divorce, judicial separation or annulment is granted, the court is empowered to order any person to refrain from forcing his/her society on his/ her spouse or former spouse and from other acts of molestation. This is especially beneficial for women, as they are generally the victims of molestation. A person who wilfully fails to comply with such an order may be sentenced to a term of imprisonment.

Muslims

Maintenance

431. Technically, a divorced Muslim woman is entitled to reasonable maintenance from her husband. She is also entitled to be maintained by her husband during the *'iddah* period (period in which the husband and wife are considering *ruju'* i.e. resuming the conjugal relationship which is approximately a period of three months.)

Mut'ah

432. The IFLA states that 'in addition to her right to apply for maintenance, a woman who has been divorced without just cause by her husband may apply to the court for *mut'ah* or a consolidatory gift, and the court may, after hearing the parties and upon being satisfied that the woman has been divorced without just cause, order the husband to pay such sum as may be fair and just according to Islamic Law (Section 56).

433. *Mut'ah* is payable by the husband in order to console the wife and to remove any appearance of accusation or shame which may arise from the divorce. It is also to enable her to face the financial difficulties caused by separation from her husband.

434. The amount of *mut'ah* is normally agreed upon by both parties but where no agreement can be reached, it will be fixed by the judge. In doing so, the judge will consider the financial position and circumstances of the wife as well as the family's financial and social standing.

Harta Sepencarian

435. Harta sepencarian means property jointly acquired by both husband and wife during the subsistence of marriage. Such legislation on the distribution of property among Muslims in Malaysia is strongly influenced by the Malay customs. As such, a woman's contribution in the form of money or in kind will be recongnized as a basis for her claim towards the jointly acquired property.

436. In case of divorce or the death of the husband, the wife can claim a third of the value of the land acquired during the marriage. It is interesting to note that a divorced wife's right to claim her share of land stands even if it is proved that she was divorced for adultery. The court may increase a divorced wife's share of land to one-half, depending upon the nature of the work done by her on the property.

Inheritance

Non-Muslims

437. Inheritance for non-Muslims is essentially governed by the Inheritance (Family Provision) Act 1971 and Distribution Act 1958. Previously, the Distribution Act 1958 ruled that when a woman dies intestate, all her property must go to her husband whether or not the marriage produced children. If a man dies intestate, however, his wife was only entitled to one-third of his estate if they have children, and one-half if they do not. In 1997, the law was amended so that now there is no distinction between the genders on this issue.

Muslims

438. The Islamic system of succession and inheritance aims at a wide distribution of property. If a person is survived by parents, spouse and offspring they will all inherit, but they will get different proportions of the inheritance, the general rule being that the share of a man is double that of a woman in the same degree of relationship. The rationale for this is that men have an obligation to provide for their families but women don't.

439. The general principle of the Islamic law on testacy is that testamentary disposition (e.g. a will) may not exceed one-third of the value of the estate of the deceased, in order to ensure fair distribution of property to all family members.

Property Ownership

440. Generally women in Malaysia have the same rights as men to own, acquire, manage and dispose of property and this does not change upon marriage. For both men and women, disposal of property requires the consent of the spouse only if the latter has a share or interest in the property.

Custody

Non-Muslims

441. Previously, only the father was recognised as the legal guardian of an infant's person and property under the Guardianship of Infants Act 1961. The mother could become its legal guardian only if the infant's father was deceased; even then, a court could appoint someone else as the infant's guardian or as joint guardian with the mother if it thought that this would be better for the child's welfare. The Guardianship of Infants Act 1961 was amended by Act A1066 which came into force on 1 October 1999 to give legal recognition to the parental rights of mothers.

442. The LRA has also made inroads into this matter. Women have the same rights to custody of children as men. At any time during any proceedings under the LRA, e.g. for divorce, judicial separation or nullity, the court has the power to place a child in custody of either of his/her parents or, if exceptional circumstances warrant it, a relative or welfare association. In fact it is specifically stated that there is a refutable presumption that it is for the good of a child below the age of seven years to be with his/her mother but in deciding whether that presumption applies to the facts of any particular case, the court shall have regard to the undesirability of disturbing the life of a child by changes of custody. The welfare of the child is the paramount consideration.

Muslims

443. Islamic law views the mother as the person best entitled to the custody of children of up to seven years of age. The custody of illegitimate children remains exclusively to the mother and her relations. The father may also apply to the Syariah Court for the custody of the children and the Court will generally consider the welfare of the child as the paramount consideration before deciding on the issue of custody.

Maintenance/Child Support

Non- Muslims

444. Under the LRA, the man is required to pay maintenance during marriage or after the issolution of the marriage for his children

a) If he has refused or neglected to provide reasonably for the child;

b) If he has deserted his wife and the child is in her charge;

c) While any matrimonial proceedings are pending;

d) During or subsequent to the making of an order placing the child in custody of any other person.

445. A woman will only be required to pay for or contribute towards the maintenance of her child if the court finds that this is reasonable given her means.

446. Specific legislation has been enacted to enforce such orders for maintenance. The court can even make an attachment of earnings upon application by the person for whose maintenance an order has been made or by his/her guardian.

Muslims

447. Under the Syariah law, the man is required to pay maintenance during marriage or after the dissolution of the marriage for his children irrespective of whether the child is:

a) in his custody; or

b) in the custody of other person including the mother and her relations; or

c) under the gurdianship of other person.

Illegitimate Children

448. Malaysian laws only recognize rights arising out of marriage. In the absence of statutory provisions, the mother of an illegitimate child has the right to custody of the child on the basis of common law. However, a putative father is obliged to maintain his illegitimate child under the law and this right is enforceable.

Relationships Out of Marriage

449. There are no specific laws governing the rights of those who live together as husband and wife out of wedlock. Malaysian courts do apply the principle of common law to make awards on distribution of property upon the breakdown of a relationship out of marriage. However, application for such awards are few and far in between.

Protection From Violence

450. In terms of protection against violence, women (and men) have recourse to two main legal instruments –

i) the body of laws on various violent crimes such as assault and rape in the Penal Code; and

ii) the Domestic Violence Act 1994. These laws are applicable to Muslims and non-Muslims.

Penal Law

451. Under the Penal Code, the following are some of the offences subject to criminal action:

a) Voluntarily causing hurt or grievous hurt;

b) Voluntarily causing hurt or grievous hurt by dangerous weapons or means;

c) Wrongful restraint or confinement;

d) Assault or use of criminal force otherwise than on grave provocation;

e) Assault or use of criminal force with intent to outrage modesty;

f) Kidnapping or abducting any woman with intent that she may be compelled to marry against her will, or forced or seduced to illicit intercourse or to a life of prostitution; and

g) Rape.

452. The legal definition of rape goes beyond having sexual intercourse with a woman against her will or without her consent and extends to situations where consent was obtained as a result of deception or under fear of hurt or death; or, where a woman is unable to understand the nature and consequences of giving her consent at the time she does so (e.g. if she is mentally disabled or under the influence of drugs.) Having sexual intercourse with a girl under 16 years of age, even with her consent, is also legally defined as rape (normally referred to as 'statutory rape').

453. The law also stipulates that sexual intercourse by a man with his own wife is not rape and Malaysia does not have a provision on marital rape. However, there are three instances in which a man who has sex with his wife can be charged for rape:

(i) Where the wife is living separately from her husband under a decree of judicial separation or a *decree nisi* not made absolute;

(ii) Where the wife has obtained an injunction restraining her husband from having sexual intercourse with her; and

(iii) In the case of a Muslim woman living separately from her husband during the period of *'iddah* which is approximately a period of three months.

454. In 1986, the Malaysian Police set up a Sexual Offences Unit to deal with rape and other sexual offences. In 1989, the legal penalties for rape were enhanced such that any person convicted for this offence faces an imprisonment term of not less than five years and not more than 20 years and is also liable to whipping.

The Domestic Violence Act 1994

455. The Domestic Violence Act 1994 (DVA), aims to provide protection for victims of violence in homes pending investigation or other criminal proceedings in court. It was passed on 24 June 1994 and was gazetted on 7 July 1994. The DVA had been long awaited, especially by battered wives and women's non-governmental organisations which had campaigned for a law to protect abused and battered women for years.

456. Although many of those who benefit from the DVA are women, the Act does not only protect women/wives. It extends its protection to either spouse, a former spouse, children, incapacitated adults or any other member of the family who is subject to violence in a domestic situation. The law provides extensive provisions relating to protective orders (POs) which can be issued by the courts. These include provisions on:

a) Issuance of interim POs pending investigation of any alleged domestic violence offence prohibiting the person against whom the order is made from using domestic violence against the spouse, a child, an incapacitated adult or any other member of the family;

b) Issuance of POs prohibiting the person against whom the order is made from using domestic violence against the spouse, a child, an incapacitated adult or any other member of the family during the course of any proceedings before the court involving a complaint of domestic violence; and

c) Attaching of additional orders to the protection order which includes:

i) granting of the right of exclusive occupation to any protected person of the shared residence by excluding the person against whom the order is made;

ii) prohibiting or restraining the person against whom the order is made from entering any protected person's place of residence, school or other institution;

iii) requiring the person against whom the order is made to allow the protected person to enter his place accompanied by an enforcement officer for the purpose of collecting the protected person's belongings; and

iv) not to make written or telephone communications with the protected person; and allowing the protected person to have continued use of a vehicle which has previously been ordinarily used by him or her.

457. Besides issuing POs, the court may also order the parties concerned to be referred to bodies providing counseling, rehabilitation therapy, psychotherapy and reconciliatory counseling. The law also provides that a protection order may be sought during any criminal proceedings where the accused is charged for a domestic violence offence under the Penal Code as a condition for the accused to be released on bail or upon the compounding of such offence.

458. Muslim wives who are in abusive marriages can also apply for divorce. Alternatively, a wife can apply to the *Syariah* Court for a restraining order against her own husband. Section 107(1) of the IFLA empowers the court to order any person to refrain from acts of molestation pending any matrimonial proceedings or on or after the grant of an order of divorce or annulment. Usually, to obtain such an order, the applicant must prove that there has been molestation in the past or that the wife is in a dangerous situation and that an order is necessary for her protection.

459. It is also an offence under the Islamic Family Law for a husband who ill-treated his own wife either mentally, emotionally or physically. The IFLA provides that any person who ill-treats his wife commits an offence and is liable to be punished with a fine not exceeding RM1000 or with imprisonment not exceeding six months or both.